

# APPENDIX

## TO THE HISTORY OF THE FOURTH CONGRESS,

COMPRISING THE MOST IMPORTANT DOCUMENTS ORIGINATING DURING THAT CONGRESS, AND THE PUBLIC ACTS PASSED BY IT.

### TREATY WITH GREAT BRITAIN.

[Communicated to the Senate, June 8, 1795.]

UNITED STATES, June 8, 1795.

*Gentlemen of the Senate:*

In pursuance of my nomination of John Jay as Envoy Extraordinary to His Britannic Majesty, on the 16th day of April, 1794, and of the advice and consent of the Senate thereto, on the 19th, a negotiation was opened in London. On the 7th of March, 1795, the Treaty resulting therefrom was delivered to the Secretary of State. I now transmit to the Senate that Treaty, and other documents connected with it. They will, therefore, in their wisdom decide whether they will advise and consent that the said Treaty be made between the United States and His Britannic Majesty.

G. WASHINGTON.

GEORGE WASHINGTON, PRESIDENT OF THE UNITED STATES OF AMERICA, TO JOHN JAY, *greeting*:

Reposing special trust and confidence in your integrity, prudence, and ability, I have nominated, and, by and with the advice and consent of the Senate, do appoint you, the said John Jay, Envoy Extraordinary from the United States of America to the Court of His Britannic Majesty, authorizing you hereby to do and perform all such matters and things as to the said place or office doth appertain, or as may be duly given you in charge hereafter, and the said office to hold and exercise during the pleasure of the President of the United States for the time being.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed. Given under my hand, at the city of Philadelphia, the nineteenth day of April, in the year of our Lord one thousand seven hundred and ninety-four, and of the independence of the United States of America the eighteenth.

G. WASHINGTON.

By the President:

EDM. RANDOLPH,  
*Secretary of State.*

### *Letter of Credence to His Britannic Majesty.*

GREAT AND GOOD FRIEND: Being desirous of confirming, between your Majesty and the United States of America, perfect harmony and a good correspondence, and of removing all grounds of dissatisfaction by a friendly discussion, I have made choice of John Jay, Chief Justice of the United States, to repair to your Majesty, in the quality of their Envoy Extraordinary. From a knowledge of his fidelity, probity, and good conduct, I have entire confidence that he will render himself acceptable to your Majesty, and will contribute, to the utmost of his power, to preserve and advance, upon all occasions, the interest and happiness of the two nations. I beseech your Majesty, therefore, to give full credence to whatever he shall say to you on the part of the United States, and, most of all, when he shall assure you of their friendship and wishes for your prosperity. And I pray God to have your Majesty in his safe and holy keeping.

Written at Philadelphia, this fifth day of May, in the year of our Lord 1794.

G. WASHINGTON.

By the President:

EDM. RANDOLPH,  
*Secretary of State.*

To our great and good friend, His BRITANNIC MAJESTY.

### *Letter of Credence to the Queen.*

MADAM, OUR GOOD FRIEND: I have named John Jay, Chief Justice of the United States of America, Envoy Extraordinary to your royal consort. My knowledge of his good qualities gives me full confidence that he will so conduct himself as to merit your esteem. I pray, therefore, that you yield entire credence to the assurances which he will bear to you of our friendship; and that God may always have you, madam, our good friend, in his holy keeping.

Written at Philadelphia, this sixth day of May, in the year of our Lord 1794.

G. WASHINGTON.

By the President:

EDM. RANDOLPH,  
*Secretary of State.*

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GEORGE WASHINGTON, PRESIDENT OF THE UNITED STATES OF AMERICA,

*To all and singular whom these presents shall concern, greeting :*

Know ye, that, for the purpose of confirming, between the United States of America and His Britannic Majesty, perfect harmony and a good correspondence, and of removing all grounds of dissatisfaction, and from a special trust and confidence in the integrity, prudence, and abilities, of John Jay, Chief Justice of the United States, I have nominated, and, by and with the advice and consent of the Senate, appointed, the said John Jay Envoy Extraordinary of the United States to His Britannic Majesty, hereby giving and granting to him full and all manner of power and authority ; as also a general and special command, at the Court of his said Majesty, for and in the name of the United States, to meet and confer with the Ministers, Commissioners, or Deputies of his said Majesty, being furnished with sufficient authority, whether singly and separately, or collectively and jointly ; and with them to agree, treat, consult, and negotiate, of and concerning all matters and causes of difference subsisting between the United States and his said Majesty, relative to the inexecution or infraction of the armistice declaring a cessation of hostilities between the United States of America and His Britannic Majesty, at Versailles, on the 20th day of January, 1783, or the definitive Treaty of Peace made between the United States and his said Majesty on the 3d day of September, 1783 ; and to conclude and sign a Treaty or Treaties, Convention or Conventions, touching the premises ; transmitting the same to the President of the United States of America for his final ratification, by and with the advice and consent of the Senate of the United States.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed. Given under my hand, at the city of Philadelphia, this sixth day of May, one thousand seven hundred and ninety-four, and of the independence of the United States of America the eighteenth.

G. WASHINGTON.

By the President :

EDM. RANDOLPH,  
*Secretary of State.*

GEORGE WASHINGTON, PRESIDENT OF THE UNITED STATES OF AMERICA,

*To all and singular whom these presents shall concern, greeting :*

Know ye, that, for the purpose of confirming, between the United States of America and His Britannic Majesty, perfect harmony and a good correspondence, and of removing all grounds of dissatisfaction, and from a special trust and confidence in the integrity, prudence, and abilities, of John Jay, Chief Justice of the United States, I have nominated, and, by and with the advice and consent of the Senate, appointed, the said John

Jay, Envoy Extraordinary of the United States to His Britannic Majesty, hereby giving and granting to him full and all manner of power and authority, as also a general and special command, at the Court of his said Majesty, for and in the name of the United States, to meet and confer with the Ministers, Commissioners, or Deputies of his said Majesty, being furnished with sufficient authority, whether singly and separately, or collectively and jointly ; and with them to agree, treat, consult, and negotiate, of and concerning all matters and causes of difference subsisting between the United States and his said Majesty, whether the same respect the inexecution or infraction of the armistice declaring a cessation of hostilities between the United States of America and His Britannic Majesty, at Versailles, on the 20th day of January, 1783, or the definitive Treaty of Peace made between the United States and his said Majesty, on the 3d day of September, 1783, or the instructions of his said Majesty to his ships of war and privateers, of whatever date, but especially on the 8th of June, 1793, the 6th of November, 1793, and the 8th of January, 1794 ; or restitution or compensation in the cases of capture or seizure made of the property of the citizens of the United States by the said ships of war and privateers ; or retribution for the injuries received therefrom by any citizen of the United States ; and, also, of and concerning the general commerce between the United States and the kingdoms and dominions of His Britannic Majesty, wheresoever they may be ; and to conclude and sign a Treaty or Treaties, Convention or Conventions, touching the premises ; transmitting the same to the President of the United States of America, for his final ratification, by and with the advice and consent of the Senate of the United States.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed. Given under my hand, at the city of Philadelphia, this sixth day of May, one thousand seven hundred and ninety-four, and of the independence of the United States of America the eighteenth.

G. WASHINGTON.

By the President :

EDM. RANDOLPH,  
*Secretary of State.*

GEORGE WASHINGTON, PRESIDENT OF THE UNITED STATES OF AMERICA,

*To all and singular whom these presents shall concern, greeting :*

Know ye, that, for the purpose of confirming, between the United States of America and His Britannic Majesty, perfect harmony and a good correspondence, and of removing all grounds of dissatisfaction, and from a special trust and confidence in the integrity, prudence, and abilities, of John Jay, Chief Justice of the United States, I have nominated, and, by and with the advice and consent of the Senate, appointed, the said John Jay Envoy Extraordinary of the United States to His



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Britannic Majesty, hereby giving and granting to him full and all manner of power and authority; and also a general and special command at the Court of his said Majesty, for and in the name of the United States, to meet and confer with the Ministers, Commissioners, or Deputies of his said Majesty, being furnished with sufficient authority, whether singly and separately, or collectively and jointly; and with them to agree, treat, consult, and negotiate of, and concerning all matters and causes of difference subsisting between the United States and his said Majesty, relative to the instructions of his said Majesty to his ships of war and privateers, of whatsoever date, but especially on the 8th of June, 1793, the 6th of November, 1793, and the 8th of January, 1794, or restitution or compensation in the cases of capture or seizure made of the property of the citizens of the United States by the said ships of war and privateers; or retribution for the injuries received therefrom by any citizen of the United States; and to conclude and sign a Treaty or Treaties, Convention or Conventions, touching the premises; transmitting the same to the President of the United States for his final ratification, by and with the advice and consent of the Senate of the United States.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed. Given under my hand, at the city of Philadelphia, this sixth day of May, one thousand seven hundred and ninety-four, and of the independence of the United States of America the eighteenth.

G. WASHINGTON.

By the President:

EDM. RANDOLPH,  
*Secretary of State.*

GEORGE WASHINGTON, PRESIDENT OF THE UNITED  
OF AMERICA.

*To all whom these presents shall concern, greeting:*

Know ye, that, reposing special trust and confidence in the integrity, prudence, and abilities of John Jay, Chief Justice of the United States, I have nominated, and, by and with the advice and consent of the Senate, have appointed, the said John Jay, Envoy Extraordinary of the United States to His Britannic Majesty; hereby giving him full power and authority for, and in the name of, the United States of America, to confer, treat, and negotiate, with any person or persons duly authorized by his said Majesty, of and concerning the general commerce between the said United States and the kingdoms and dominions of his Majesty, wheresoever they may be; and to conclude and sign a Treaty or Treaties, Convention or Conventions, thereon; transmitting the same to the President of the United States of America for his final ratification, by and with the advice and consent of the Senate.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed. Given under my hand, at the city of Phila-

delphia, this sixth day of May, one thousand seven hundred and ninety-four, and of the independence of the United States the eighteenth.

G. WASHINGTON.

By the President:

EDM. RANDOLPH,  
*Secretary of State.*

*Instructions to Mr. Jay.*

PHILADELPHIA, May 6, 1794.

Sir: The mission upon which you are about to enter, as Envoy Extraordinary to the Court of London, has been dictated by considerations of an interesting and pressing nature.

You will doubtless avail yourself of these to convince Mr. Pinckney, our Minister in ordinary there, of the necessity of this measure, and will thus prevent any wound to his sensibility. He may be assured that it is the impression which will naturally accompany this demonstration of the public sentiment, and not the smallest abatement of confidence in him, which has recommended a special appointment; nor will any of his usual functions be suspended, except so far as they may be embraced in the present commission. It would be unnecessary to add, but for the sake of manifesting this fact and removing difficulties which may arise in your own breast, that you will communicate with him without reserve.

A full persuasion is entertained that, throughout the whole negotiation, you will make the following its general objects: to keep alive in the mind of the British Minister that opinion which the solemnity of a special mission must naturally inspire, of the strong agitations excited in the people of the United States, by the disturbed condition of things between them and Great Britain; to repel war, for which we are not disposed, and into which the necessity of vindicating our honor and our property may, but can alone, drive us; to prevent the British Ministry, should they be resolved on war, from carrying with them the British nation; and at the same time, to assert with dignity and firmness our rights, and our title to reparation for past injuries.

One of the causes of your mission being the vexations and spoliations committed on our commerce by the authority of instructions from the British Government, you will receive from the Secretary of State the following documents, viz: the instructions of the 8th of June, 1793, 6th of November, 1793, and 8th of January, 1794; the Secretary of State's letter to Mr. Pinckney, on the 7th of September, 1793; Mr. Hammond's letter to the Secretary of State, on the 12th of September, 1793; Mr. Pinckney's note and memorial to Lord Grenville; Mr. Hammond's second letter to the Secretary of State, on the 11th of April, 1794; the Secretary of State's answer on the 1st instant; a list and sketch of the cases upon which complaints have been made to our Government; and the instructions given to N. C. Higginson, who has been lately sent as agent to the British Islands in the West Indies.

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These several papers develop the source of our discontent on this head; the representations which have been offered; the answers which have been rendered; and the situation of the business at this moment.

You will perceive that one of the principles upon which compensation is demanded for the injuries under the instructions of the 8th of June, 1793, is, that provisions, except in the instance of a siege, blockade, or investment, are not to be ranked among contraband. To a country remote as the United States are from Europe and its troubles, it will be of infinite advantage to obtain the establishment of this doctrine.

Upon the instructions of the 6th of November, 1793, Mr. Pinckney has made a representation, and perhaps a memorial, to Lord Grenville; both of which you will procure of Mr. Pinckney. The matter of these instructions fills up the measure of depredation. They were unknown publicly in England until the 26th of December, 1793; there is good reason to suppose that they were communicated to the ships of war, before they were published; and that, in consequence of a private notification of them, a considerable number of new privateers were fitted out; the terms "legal adjudication," in spite of the explanation on the 8th of January, 1794, was most probably intended to be construed away or not, according to events; and many vessels have been condemned under them.

Compensation for all the injuries sustained, and captures, will be strenuously pressed by you. The documents which the agent in the West Indies is directed to transmit to London will place these matters in the proper legal train to be heard on appeal. It cannot be doubted that the British Ministry will insist that, before we complain to them, their tribunals, in the last resort, must have refused justice. This is true in general, but peculiarities distinguish the present from the past cases. Where the error complained of consists solely in the misapplication of the law, it may be corrected by a superior Court; but where the error consists in the law itself, it can be corrected only by the law-maker, who, in this instance, was the King, or it must be compensated by the Government. The principle, therefore, may be discussed and settled without delay; and even if you should be told to wait until the result of the appeals shall appear, it may be safely said to be almost certain that some one judgment in the West Indies will be confirmed; and this will be sufficient to bring the principle in question with the British Ministry.

Should the principle be adjusted, as we wish and have a right to expect, it may be advisable to employ some person to examine the proper offices in London, for such vessels as may have been originally tried or appealed upon, and finally condemned. You will also reserve an opportunity for new claims, of which we may all be ignorant for some time to come; and if you should be compelled to leave the business in its legal course, you are at liberty to procure professional aid at the expense of the United States.

Whenever matters shall be brought to such a

point as that nothing remains for settlement but the items of compensation, this may be entrusted to any skilful and confidential person whom you may appoint.

You will mention, with due stress, the general irritation of the United States at the vexations, spoliations, captures, &c. And being on the field of negotiation you will be more able to judge than can be prescribed now, how far you may state the difficulty which may occur in restraining the violence of some of our exasperated citizens.

If the British Ministry should hint at any supposed predilection in the United States for the French nation, as warranting the whole or any part of these instructions, you will stop the progress of this subject, as being irrelative to the question in hand. It is a circumstance which the British nation have no right to object to us, because we are free in our affections and independent in our Government. But it may be safely answered, upon the authority of the correspondence between the Secretary of State and Mr. Hammond, that our neutrality has been scrupulously observed.

II. A second cause of your mission, but not inferior in dignity to the preceding, though subsequent in order, is to draw to a conclusion all points of difference between the United States and Great Britain, concerning the Treaty of Peace.

You will therefore be furnished with copies of the negotiation upon the inexecution and infractions of that Treaty, and will resume that business. Except in this negotiation, you have been personally conversant with the whole of the transactions connected with the Treaty of Peace. You were a Minister at its formation, the Secretary of Foreign Affairs when the sentiments of the Congress, under the Confederation, were announced through your office; and as Chief Justice you have been witness to what has passed in our Courts, and know the real state of our laws, with respect to British debts. It will be superfluous, therefore, to add more to you than to express a wish that these debts, and the interest claimed upon them, and all things relating to them, be put outright in a diplomatic discussion, as being certainly of a judicial nature, to be decided by our Courts; and if this cannot be accomplished, that you support the doctrines of Government with arguments proper for the occasion, and with that attention to your former public opinions, which self-respect will justify, without relaxing the pretensions which have been hitherto maintained.

In this negotiation as to the Treaty of Peace, we have been amused by transferring the discussions concerning its inexecution and infractions from one side of the Atlantic to the other. In the mean time, one of the consequences of holding the posts has been much bloodshed on our frontiers by the Indians, and much expense. The British Government having denied their abetting of the Indians, we must of course acquit them. But we have satisfactory proofs (some of which, however, cannot, as you will discover, be well used in public) that British agents are guilty of

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stirring up and assisting with arms, ammunition, and warlike implements, the different tribes of Indians against us. It is incumbent upon that Government to restrain those agents; or the forbearance to restrain them cannot be interpreted otherwise than as a determination to countenance them. It is a principle from which the United States will not easily depart, either in their conduct towards other nations, or what they expect from them, that the Indians dwelling within the territories of one shall not be interfered with by the other.

It may be observed here, as comprehending both of the foregoing points, that the United States testify their sincere love of peace, by being nearly in a state of war, and yet anxious to obviate absolute war by friendly advances; and if the desire of Great Britain to be in harmony with the United States be equally sincere, she will readily discover what kind of sensations will at length arise, when their trade is plundered; their resources wasted in an Indian war; many of their citizens exposed to the cruelties of the savages; their rights by Treaty denied; and those of Great Britain enforced in our Courts. But you will consider the inexecution and infraction of the Treaty as standing on distinct grounds from the vexations and spoliations; so that no adjustment of the former is to be influenced by the latter.

III. It is referred to your discretion whether, in case the two preceding points should be so accommodated as to promise the continuance of tranquility between the United States and Great Britain, the subject of a Commercial Treaty may not be listened to by you, or even broken to the British Ministry. If it should, let these be the general objects:

1st. Reciprocity in navigation, particularly to the West Indies, and even to the East Indies.

2d. The admission of wheat, fish, salt meat, and other great staples, upon the same footing with the admission of the great British staples in our ports.

3d. Free ships to make free goods.

4th. Proper security for the safety of neutral commerce in other respects; and particularly, by declaring provisions never to be contraband, except in the strongest possible case, as the blockade of a port; or, if attainable, by abolishing contraband altogether: By defining a blockade, if contraband, must continue in some degree, as it is defined in the armed neutrality: By restricting the opportunities of vexation in visiting vessels; and by bringing under stricter management privateers, and expediting recoveries against them for misconduct.

5th. Exemption of emigrants, and particularly manufacturers, from restraint.

6th. Free exports of arms and military stores.

7th. The exclusion of the terms "the most favored nation," as being productive of embarrassment.

8th. The convoy of merchant ships by the public ships of war, where it shall be necessary, and they be holding the same course.

9th. It is anxiously to be desired, that the fish-

ing grounds now engrossed by the British should be opened to the citizens of the United States.

10th. The intercourse with England makes it necessary that the disabilities arising from alienage, in cases of inheritance, should be put upon a liberal footing, or rather abolished.

11th. You may discuss the sale of prizes in our ports while we are neutral; and this, perhaps, may be added to the considerations which we have to give, besides those of reciprocity.

12th. Proper shelter, defence, and succor against pirates, shipwreck, &c.

13th. Full security for the retiring of the citizens of the United States from the British dominions, in case a war should break out.

14th. No privateering commissions to be taken out by the subjects of the one, or citizens of the other party, against each other.

15th. Consuls, &c., to be admitted in Europe, the West and East Indies.

16th. In case of an Indian war, none but the usual supplies in peace shall be furnished.

17th. In peace, no troops to be kept within a limited distance from the Lakes.

18th. No stipulation whatsoever is to interfere with our obligations to France.

19th. A Treaty is not to continue beyond fifteen years.

IV. This enumeration presents generally the objects which it is desirable to comprise in a commercial Treaty; not that it is expected that one can be effected with so great a latitude of advantages.

If to the actual footing of our commerce and navigation in the British European dominions could be added the privilege of carrying directly from the United States to the British West Indies, in our own bottoms generally, or of certain defined burdens, the articles which, by the act of Parliament, 28 Geo. III. c. 6, may be carried thither in British bottoms, and of bringing from thence, directly to the United States, in our bottoms, of like description, the articles which, by the same act, may be brought from thence to the United States in British bottoms, this would afford an acceptable basis of Treaty for a term not exceeding fifteen years; and it would be advisable to conclude a Treaty upon that basis. But such a Treaty, instead of the usual clause concerning ratification, must contain the following: "This Treaty shall be obligatory and conclusive, when the same shall be ratified by His Britannic Majesty, of the one part, and by the President of the United States, by and with the advice and consent of the Senate, of the other."

But if a Treaty of Commerce cannot be formed upon a basis as advantageous as this, you are not to conclude or sign any such; it being conceived that it would not be expedient to do anything more than to digest with the British Ministry the articles of such a Treaty as they appear willing to accede to; referring them here for consideration and further instruction previous to a formal conclusion.

Some of the other points, which it would be interesting to comprehend in a Treaty, may not

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be attended with difficulty. Among these is the admission of our commodities and manufactures, generally, into the British European dominions upon a footing equally good with those of other foreign countries. At present, certain enumerated articles only are admitted; and though the enumeration embraces all the articles which it is of present consequence to us to be able to export to those dominions, yet in process of time an extension of the objects may become of moment. The fixing of the privileges which we now enjoy in the British East Indies, by toleration of the Company's government, if any arrangement can be made, with the consent of the Company, for that purpose, would be also a valuable ingredient.

V. You will have no difficulty in gaining access to the Ministers of Russia, Denmark, and Sweden, at the Court of London. The principles of the armed neutrality would abundantly cover our neutral rights. If, therefore, the situation of things, with respect to Great Britain, should dictate the necessity of taking the precaution of foreign co-operation upon this head; if no prospect of accommodation should be thwarted by the danger of such a measure being known to the British Court; and if an entire view of all our political relations shall, in your judgment, permit the step, you will sound those Ministers upon the probability of an alliance with their nations to support those principles.

However, there can be no risk in examining what can be concerted with Denmark and Sweden, or any other Power, against the Algerines. It may be represented to the British Ministry, how productive of perfect conciliation it might be to the people of the United States, if Great Britain would use her influence with the Dey of Agiers for the liberation of the American citizens in captivity, and for peace upon reasonable terms. It has been communicated from abroad, to be the fixed policy of Great Britain to check our trade in grain to the Mediterranean. This is too doubtful to be assumed, but fit for inquiry.

VI. Such are the outlines of the conduct which the President wishes you to pursue. He is aware that, at this distance, and during the present instability of public events, he cannot undertake to prescribe rules which shall be irrevocable. You will, therefore, consider the ideas herein expressed as amounting to recommendations only, which, in your discretion, you may modify as seems most beneficial to the United States, except in the two following cases, which are immutable: 1st. That as the British Ministry will doubtless be solicitous to detach us from France, and may probably make some overture of this kind, you will inform them that the Government of the United States will not derogate from our Treaties and engagements with France, and that experience has shown that we can be honest in our duties to the British nation, without laying ourselves under any particular restraints as to other nations; and, 2d. That no Treaty of Commerce be concluded or signed contrary to the foregoing prohibition.

Besides the papers and documents mentioned in the former parts of these instructions, you have

received your commission as Envoy Extraordinary, letters of credence to the King and Queen of England; the latter of which, being without superscription, you will address as may appear proper, and deliver or not, as you find to be right on such occasions; four sets of powers, one general, comprehending all the points to be negotiated with Great Britain; the other three special, for each separate point, in order that you may be prepared to exhibit your authority altogether, or by detachment, as may be most convenient. Copies of Lord Dorchester's speech to the Indians, the authenticity of which, though not absolutely ascertained, is believed: and of certain affidavits respecting the British interference with our Indians; and a cipher.

You are too well acquainted with the nature of the great functions which you are called to exercise, to render it necessary for me to add the earnest wish of the President of the United States that your communications to the Secretary of State should be frequent and full; and that you should correspond with our Ministers abroad, upon any interesting occasion which may demand it. For the latter of these purposes, you will avail yourself of Mr. Pinckney's ciphers.

Your expenses will be paid, together with the allowance of thirteen hundred and fifty dollars per annum for a secretary.

On your return, you will be pleased to deliver into the Secretary of State's office, such papers as you may possess, of importance sufficient to be filed there; and will prepare a general report of all your transactions.

Not doubting that you will execute this trust in a manner honorable to yourself, and salutary to the United States, I beg leave to offer to you my sincere wishes for your health and safe return.

EDMUND RANDOLPH,  
*Secretary of State.*

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*Mr. Randolph to Mr. Jay.*

PHILADELPHIA, May 27, 1794.

SIR: The embargo ceased the day before yesterday; and the William Penn, being the first ship from this port destined to London, will bear my despatches.

If it were not to demonstrate our anxiety for the success of your mission, it would be scarcely worth mentioning a circumstance which you will doubtless have ascertained before that part of your instructions relative to Sweden is executed. The Vice President assures us that the present Minister from that country at the Court of London, is so notoriously at the command of the British Minister, that the latter is instantaneously informed of every piece of intelligence deposited with the former. Still, the President, reviewing the possibilities which are opened by the prospect of what you already know, and what will now be communicated to you, becomes daily more strenuous that Denmark and Sweden should be well understood, as to the point to which they will go with us, in case we are driven into a war with Great Britain. He would send a Minister thither immediately,



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to explore and negotiate eventually; but that good faith, and the state of things in your hands, require a suspension of this measure, and he confides that you will, if necessary, prepare the minds of those Powers, through their representatives in London, and give us the earliest notice of the fitness of making a more direct and formal application to them.

Although our agent in the West Indies, Mr. Higginson, will certainly forward to you the various documents and information which he was instructed to collect, yet I have thought it best to send to you, by this opportunity, such papers on the vexations and spoliations of our trade as have been transmitted to my office. They are, indeed, extremely imperfect in every respect; but they contain enough of the cases, in general, to afford a competent idea of the principle of each, and may be useful until the full records arrive, or if any accident should befall them.

You carried with you a list of all which had been brought to view at the time of your departure. Some additions have been since made, and are noted in a supplementary list. The Senate is in possession of a short abstract of most of the complaints; and immediately upon their rising, which will probably take place in ten days, I will procure it, and convey it by the next conveyance afterwards. I beg leave to suggest to you that, as several of these papers may, perhaps, be useful in controversies with underwriters, it may be advisable to return such of them as are not indispensably necessary to be retained.

The late conduct of Mr. Hammond is that of a minister foreseeing a rupture with the United States, and collecting every scrap of exceptionable matter, howsoever small, in order to swell the list of grievances in some future manifesto. He will, therefore, magnify an affair which happened here a week or two ago, when an American vessel, chartered by some British officers, was supposed to be secretly preparing to violate the embargo. But the letters which have passed on the occasion, and accompanying this, will prove the exertions of the Government and the petulance of himself.

There was more pretext, however, for this than for some other of his complaints. He wrote strongly of danger to Mr. Thornton, the British Consul at Baltimore, from a lawless mob there; of danger to Mr. Hamilton, the British Consul at Norfolk, from a lawless mob there; of danger to Sir C. H. Knowles, commander of the *Dædalus* frigate, at Norfolk, from the same lawless mob; and of an unjust prohibition to the *Gélan* and *Hussar* frigates, to go up to Charleston, South Carolina. The Government yielded to his apprehensions, and took the steps, and produced the result disclosed in the papers now forwarded, as being connected with these affairs. You will see from them how prompt he is to begin a remonstrance, when his information is neither precise nor specific. The Government, I am sure, ought not, and, I trust, never will, suffer unauthorized individuals to measure out compensation or revenge for themselves. But you well know the

irritability which the late plunderings and injuries have excited; and I can assure you that it is hourly increased by the animated accounts which are daily brought from the West Indies by our returning captains and sailors, of their aggravated and unparalleled sufferings there. We ask, on the arrival of every vessel from thence, with an earnestness to be answered in the affirmative, "have the instructions of the 8th of January abolished the severities of preceding instructions?" We hear nothing satisfactory; and we hear many new things of the depredations on our property at Martinique, which keep us in a dreadful uncertainty.

A few days ago we were roused by the intelligence that Governor Simcoe had marched to the rapids of the Miami of the Lake, with three companies of Colonel England's regiment, to build a fort there. This produced a letter from myself to Mr. Hammond, and his answer. From them, and the other papers, you will observe, that Lord Dorchester's speech is unquestionably authentic, and that we are utterly at a loss whether the movement of Simcoe springs from the spirit of November 6, 1793, which the British Minister has not had time to correct, or a part of the system which is even yet to be adhered to. In a day or two I expect to have an answer ready to Mr. Hammond's answer, the principal drift of which will be to obviate the insinuations in the latter part of his letter. In the mean while, I enclose to you the proceedings at Newport, in Rhode Island, which involve too much delicacy to be delayed in the communication. But all these events, proceeding, as they do, from a state of inflammation, which the British Government has it in their power to extinguish, manifest the necessity of an immediate adjustment of our disputes.

To prove that we do not suffer the French to take any liberty, not consistent with their duty to us as neutrals, I beg leave to refer to the publications of our measures in Kentucky, South Carolina, and Georgia.

We take it for granted that the nature of the subject, the opinions expressed to you by the President, the instructions which were delivered to you, and, indeed, your own judgment and inclination, rendered it unnecessary to use any very pointed prohibition of a surrender of the posts or any part of our territory to Great Britain, upon any consideration. The interesting magnitude of the subject will therefore be my apology for mentioning the decided and irrevocable sense of the President relative to this affair.

You will be pleased to communicate this letter to Mr. Pinckney; and to be assured that I am, sir, with truth and sincerity, your obedient servant,  
EDMUND RANDOLPH.

*Mr. Randolph to Mr. Jay.*

PHILADELPHIA, May 28, 1794.

SIR: It will be out of my power to send by the William Penn any other of the documents mentioned in my letter of yesterday, than those which relate to British spoliations, (in a box;) copies



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from the War Office, respecting Lord Dorchester's and Governor Simcoe's movements; copies of Mr. Hammond's correspondence with me upon this subject; and copies of what has been published by the House of Representatives concerning the expeditions meditated against the Spanish dominions. The other papers will be expedited by the George Barclay, which will sail to-morrow for London.

I have the honor, sir, to be, with sincere respect,  
your most obedient servant,

EDMUND RANDOLPH.

*Mr. Randolph to Mr. Jay.*

PHILADELPHIA, May 29, 1794.

SIR: The remaining papers, referred to in the letter which I had the honor of writing to you yesterday, are herewith enclosed, according to the list. From No. 1 to No. 23, inclusive, you will find an explication of what relates to the British Consul at Baltimore, the British Consul at Norfolk, Sir C. H. Knowles, and the Bermudian privateer. From No. 24 to 35, inclusive, the affair of the Swift Packet, and the supposed insult to the British officers, are stated. No. 36 contains the allegations against the State of Rhode Island. No. 37 is no further important than to show the sense of Mr. Hammond, while he was in good temper, of the actual civility of our conduct towards him.

I forward by this conveyance to Mr. Pinckney some papers relative to a claim of Maryland, for stock in the Bank of England. That State conceives this matter to have been discarded by some decree of the Chancellor of Great Britain from forensic jurisdiction, and to be now converted into a diplomatic question. How far this may be the case I pretend not to determine; but should it be so, and effectual aid can be given to Mr. Pinckney by your intervention, or it can be seasonably mixed with your mission, the President wishes you to take the subject up.

In the box sent yesterday, are my letters, newspapers, and the publications respecting Lord Dorchester's speech, Governor Simcoe's movement, and the expeditions meditated against the Spanish dominions. The publications are now repeated to Mr. Pinckney.

I have the honor, sir, to be, with great and sincere respect, your most obedient servant,

EDMUND RANDOLPH.

*Mr. Randolph to Mr. Jay.*

PHILADELPHIA, June 8, 1794.

SIR: I do myself the honor of referring you to my letters of the 27th, 28th, and 29th of the last month, and the papers forwarded with them. By the Atlantic, from this port, will go another bundle of spoiliations, according to the list sent, and my answer to Mr. Hammond's letter of the 22d ultimo.

We have not yet received any very authentic documents from Martinique; but, if we are to believe a report which circulates here upon good

foundation, the system of plunder, persecution, and cruelty, adopted by Admiral Jervis, after acquiring possession of the island, is unknown in the history of any warring towards a neutral nation. It is said that, before a vessel could be claimed by the citizens of the United States in the Court of Admiralty, the Captain was obliged to give security to the amount of sixty johanneses to answer the costs; that condemnation being general, this sum was an addition to their loss; that prison-ships are open for the reception of the Americans; and that multitudes are crowded in them. So much depends upon your mission that, if it should be unsuccessful, contrary to the wish of my friends and the friends of peace, I know not how the general irritation can be checked.

I have the honor, sir, to be, with great respect and esteem, your most obedient servant,

EDMUND RANDOLPH.

*Mr. Randolph to Mr. Jay.*

PHILADELPHIA, June 9, 1794.

SIR: Since the writing of my letter yesterday, I have received from Mr. Pinckney the case of the snow Sukey, and from the eastward, that of the brigantine Maria. I beg leave to add these to the long list already in your hands, and to assure you of the great respect and esteem with which I have the honor, sir, to be, your most obedient,

EDMUND RANDOLPH.

*Mr. Jay to Mr. Randolph—No. 1.*

FALMOUTH, June 9, 1794.

SIR: I landed here last evening, and immediately informed Lord Grenville and Mr. Pinckney of my arrival, by letters which went by the post last night.

In the course of this day I expect to set out for London, from whence I promise myself the honor of writing to you again very speedily. This letter will be committed to the care of Captain Blair, who will sail next week for Philadelphia. Be so obliging as to forward the enclosed.

I shall request Mr. Fox, our Consul here, to send you some of the latest public papers. As yet I have not had time to read any of them; but am told they mention several interesting events.

I have the honor to be, with great respect, &c.,  
JOHN JAY.

P. S. Mr. Fox, the Consul, informs me that his commission is to *Richard Fox*, instead of *Robert Were Fox*, which is his name—he wishes that another commission may be issued accordingly.

*Mr. Jay to Mr. Randolph—No. 2.*

LONDON, June 23, 1794.

SIR: I had the honor to write to you a few lines at Falmouth on the 9th instant, mentioning my having arrived there the preceding evening; that letter was committed to the care of our Consul Mr. Fox. He expected to forward it by the Active, Captain Blair, who was soon to sail for Phi

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ladelphia, but whose departure has been unexpectedly prolonged to this time.

On the 15th I arrived here, and the same day mentioned it by letter to Lord Grenville. He appointed the 18th for my reception, and I then communicated to him my first commission, and left with him a copy of it. This was a visit of ceremony, and nothing passed between us relative to the objects of my mission. The next day I sent him copies of my letters of credence.

On the 20th I had an interview with him by his appointment; and I communicated to him my general power, of which I have since sent him a copy. Much general conversation took place, and the principal topics were touched upon. His lordship did not commit himself on any point; he heard me very patiently and politely. He promised to appoint a short day for another conference, and I took my leave impressed with sentiments favorable to his character and manners. If his disposition be hostile he conceals it admirably. What will be the decision of the Court I will not venture even to conjecture. As yet I have no reason to be dissatisfied, or to consider appearances as being unfavorable. No delays or arts to procrastinate have been practised.

It is to be wished that no intelligence of an irritating nature may arrive from America. I do not regard preparations for war as of that nature. They ought not, in my opinion, to be neglected or delayed in the most profound state of peace.

I shall not omit any opportunity of giving you such information as will enable you to see precisely the state of the negotiation, and shall endeavor to avoid deceiving you or myself by delusive hopes or groundless fears.

I have the honor to be, with great respect, &c.,

JOHN JAY.

*Mr. Jay to Mr. Randolph—No. 3.*

LONDON, June 26, 1794.

SIR: Since my last, the Minister has appointed to-morrow for a conference with me. Captain Allen waits for my letter. Nothing new has occurred; appearances continue favorable.

Yours, &c.,

JOHN JAY.

*Mr. Jay to Mr. Randolph—No. 4.*

LONDON, July 6, 1794.

The letters which, since my arrival, I have had the honor of writing to you, are as follows: 9th June, at Falmouth, left with our Consul there to transmit by the Active, Captain Blair, for Philadelphia; and the 23d June, by Mr. Francis, of which I also sent a duplicate by the Mohawk, Captain Allen, to New York, and 26th June, by the same.

On the 27th June, I had a conference with Lord Grenville, in the course of which all the topics of difference between the two nations were touched. This conference I considered as intended for more particular discussions. It amounted, however, only to a friendly and informal conversation on

these subjects. He appeared to be liberal, candid, and temperate, but did not commit himself, or say anything decisive on any point. He observed that he wished first to be informed of the extent of our views and objects, and that a consultation with the rest of the King's Ministers would be necessary to enable him to be more explicit. This appeared to me to be perfectly fair and proper.

In conversing on the subject of captures and spoiliations, I was surprised that not a single case under the instructions of November had been laid before him. He requested me to furnish him with some of the strongest of those cases, and remarked that an accurate knowledge of facts should precede any measures on that head. He said very frankly that there might be such a state of things as to render the interposition of Government proper and necessary to satisfy justice; and that he was desirous of having such exact information as would enable him to judge whether, and how far, the captures in question were under that predicament. On applying to Mr. Pinckney, I learned that no such cases had been transmitted to him from America. Mr. Crafts, a gentleman from Boston, has furnished me with the case of the Charlotte, decided at Antigua, and from which decision an appeal was made. It unfortunately happens that this is not among the strongest of those cases. Mr. Crafts took the opinion of counsel on the subject; that opinion is as follows:

*"THE CHARLOTTE, COFFIN.—Appeal from Antigua.*

"Dr. Nicoll is requested to peruse the proceedings and evidence contained in the process herewith left, and advise whether it is expedient for the claimants to prosecute this appeal.

"I have perused the proceedings and evidence contained in the process transmitted, by which it appears that the cargo of this ship being the produce of the French West India colonies, and coming directly from thence to France, was considered as liable to confiscation, although it should be the property of Americans.

"In the war before the last, Great Britain condemned neutral vessels and their cargoes trading to the French islands, upon the ground that the trade was not permitted in time of peace, and that the permission was given by the French during the distresses of war, as an expedient to protect their property against British captors; which occasional protection, neutral nations were held to have no right to afford them. In the last war, neutral vessels trading to the French islands were not condemned, but the former principle was not thereby considered to be abandoned, inasmuch as the French had opened their colonial ports before the commencement of hostilities. No such step (as far as I am informed) was taken by the French previous to the present hostilities; and, as the Americans and other neutrals were not permitted, before the war, to purchase the produce of the French islands and carry it in their own vessels from thence to France, and as the instructions of the 8th of January, 1794, (revoking those of 6th November, 1793,) still direct the seizure of 'all

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vessels, with their cargoes, that are laden with goods, the produce of the French West India islands, and coming directly from any port of the said islands to any port in Europe; I should apprehend that the sentence of condemnation will be affirmed. However, it being understood that a negotiation between Great Britain and America is now pending, in which it is probable that the legality of this trade will undergo some discussion and settlement, it will, at all events, be expedient on the part of the appellant so far to proceed as to preserve his right of bringing the sentence to a revision; more especially as no decision upon the point has yet taken place by the Lords of Appeal; but the expediency of finally bringing the cause to a hearing may depend upon the result of the pending negotiation, or upon some decision to be given by the Appellant Court.

"J. NICHOLL

"JULY 2, 1794."

The list of captures with which I was furnished does not state the principles or pretexts on which the condemnations mentioned in it were grounded, and consequently is of little use on the present occasion. The case of Marston Watson, which I received from you before my departure, is a very strong one; but then it asserts only the expectation, but not the certainty of condemnation.

No despatches from Mr. Higginson (of whose instructions I have a copy) have as yet reached me. These instructions are, in my opinion, well devised; and if as well executed, will furnish me with all the information which it seems has become so requisite.

On the 3d of this month I was, in the usual form, presented to the King, and the next day to the Queen. The reception I received from them both was affable and satisfactory, and perfectly calculated to create an opinion of the good will of this Government to the United States. The King seemed to be well prepared for the occasion. He expressed his confidence in the assurances I gave him of the disposition of the United States to cultivate peace and harmony. He intimated (but without any direct application) that it was expedient for all nations who respected order, good government, morality, and religion, to be friends. On this topic he expressed many general sentiments that were liberal and proper. How far these appearances will correspond with future facts, time only can decide; they certainly afford some, though not *conclusive* evidence, of a friendly disposition.

By the arrival of the William Penn, your late correspondence with Mr. Hammond became known to the public. What impression it has made on the Government here, I have not as yet been able to judge.

In the conduct of this negotiation, I shall proceed with as much expedition as prudence will permit. It appears to me expedient to be guided by occasions and circumstances, and to give every conciliatory application a fair experiment. Conceiving it to be advisable to afford the Minister an

opportunity of increasing the evidence of a friendly disposition, I prepared a letter to him, which, after having well considered, I sent to him the next day. It is in these words, viz:

"PALL MALL, ROYAL HOTEL, July 3, 1794.

"MY LORD: Such various and important affairs must necessarily demand and employ your time and attention, that I really feel a reluctance to add to their number; and yet, circumstanced as I am, and circumstanced as my country is, I find myself irresistibly impelled to submit to your lordship's consideration, the expediency of my being authorized to convey to the President (by the vessels which sail next week) such assurances as may tend to compose his and the public mind in America.

"I can find but few authenticated cases of the captures in question, which have as yet arrived here, and they shall be speedily laid before your lordship. Would it not, for the present, consist with your ideas on that subject to say, that, if those captures, on being investigated, should appear to be of such extent and magnitude as to merit the attention and interposition of Government, that then, &c., &c.?

"Would it not also be right and proper to open the door for appeals, and to instruct His Majesty's officers in America to promote, by their conduct, that friendship and mutual good will which the Governments of both countries desire to establish and perpetuate? Delay is often hazardous. Pardon my anxiety, lest new difficulties should arise; to prevent, is generally more easy than to remedy.

"I cannot conclude this letter, without expressing to your lordship how sensibly I feel, and am gratified, by the friendly disposition of His Majesty towards the United States, manifested by the very gracious reception with which I have been honored by their Majesties, and the magnanimity of the sentiments which the King condescended to express on the occasion.

"It is my duty, and I shall perform it with the most cordial satisfaction, to make known to the President these pleasing circumstances; they perfectly harmonize with the liberality and candor, and with the obliging attentions I have experienced from your lordship; and if these representations should be accompanied with correspondent official assurances, a promising foundation would be laid for the establishment and duration of that friendship and cordiality between our two countries, which I pray God may speedily take place, and become perpetual.

"With very sincere respect and esteem, I have the honor to be, my lord, your lordship's, &c.,  
"J. J.

"P. S. As yet I have received no official letters by the late arrivals from America.

"Rt. Hon. LORD GRENVILLE, *one of His Majesty's Principal Secretaries of State, &c.*"

To this letter I have not as yet received an answer, nor did I expect one so early. You will readily perceive, that, before it can be answered, the Administration will probably think it necessa-

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ry to decide on their line of conduct towards our country. Whatever the answer may be, it will unavoidably contain indications, either of evasion, or suspense, or irritation, or fair and liberal conduct. What the complexion will be, I cannot predict. As yet I have every reason to be satisfied, and it is but just and right that I should say it without reserve.

I shall persevere in my endeavors to acquire the confidence and esteem of the Government, not by improper compliances, but by that sincerity, candor, truth, and prudence, which, in my opinion, will always prove to be more wise and more effectual than finesse and chicanery.

Formal discussions of disputed points should, in my judgment, be postponed, until the case becomes desperate. My present object is to accommodate, rather than to convict or convince. Men who sign their names to arguments seldom retract.

If, however, my present plan should fail, and I am far from being certain that it will not, I shall then prepare and present such formal, and, at the same time, such temperate and firm representations as may be necessary to place the claims and conduct of the two Governments in their proper points of view.

On the 5th of July I received the following letter from Mr. Henry Waddell, viz:

"JULY 5, 1794.

"SIR: By the advice of Thomas Pinckney, Esq., I have called upon you to state the particulars of the capture and detention of the American ship *Amsterdam Packet*, but not having the honor of a personal interview, permit me to do it in this way.

"The American ship *Amsterdam Packet*, (Henry Waddell, master,) of New York, owned by Messrs. Daniel Ludlow & Co., laden with sugar, cotton, coffee, pot and pearl ashes, oil and tobacco, left said port on the 28th of October last, bound for the port of Havre-de-Grace; but, on the 29th November following, was forcibly taken by the privateer *Princess Elizabeth*, cutter, and carried into Liverpool, where the vessel, as well as cargo, are still detained, without any other reason assigned than that the captors say they are indemnified by the order of the 6th November, (which no doubt you are acquainted with,) and for which she must wait the adjudication. It is now seven months since the vessel was taken, and if we have to wait our turn for the adjudication of the Admiralty Court, it will be three or four months more before we can hope for a release. Any services rendered by you will be thankfully acknowledged by, sir, &c., &c.,

"HENRY WADDELL.

"Hon. JOHN JAY, Esq.,  
*Envoy Extraordinary, &c.*"

I immediately sent it to Lord Grenville, enclosed in the following letter, viz:

"PALL MALL, July 5, 1794.

"MY LORD: I am persuaded your sensibility will be hurt by the delay mentioned in the enclosed letter from Mr. Waddell. The impressions

which it must naturally make, even on the most liberal minds, are to be regretted. It will be sensibly felt by the owner, whose nearest connexions have, to my knowledge, done and suffered much from their attachment to this country.

"I forbear to add any thing, except sincere assurances of the respect and esteem with which I have the honor to be, &c., J. J.

"The Right Hon. Lord GRENVILLE, &c."

This letter needs no comment; it will probably lead the Minister to observe that all descriptions of persons amongst us are affected by the injuries of which we complain, and will naturally participate in the sentiments which those injuries cannot fail to excite. It is for the sake of this idea that I mention the transaction, which, in other respects, may not be deemed of sufficient importance to find a place in this letter.

I have seen many respectable and influential characters here, and, from their sentiments and conversation, there certainly is reason to believe that war with us would be an unpopular measure, provided nothing should occur to fix the imputation of aggression on us.

In a late conversation with certain persons attached to the Administration, and of weight in that scale, the general conduct of our Government received the most unreserved approbation, and the character of the President was spoken of in terms of the highest respect.

I have not heard that Carleton's speech or Simcoe's interference were defended by anybody. As yet I have neither heard nor seen anything that looks like a hostile disposition in the mass of this nation towards ours, but the contrary.

What designs may be, or have been, in the Cabinet, is another matter. Information of that kind is not readily acquired, but I shall not be inattentive to it. Men are prone to suspect, sometimes, too much, and sometimes too little; and to avoid both extremes is more proper than it is easy.

On the subject of the affairs committed to me, I have nothing further to add at present.

I have received a letter from Mr. Bourne, which, together with my answer to it, should, I think, be communicated to you. They are as follows, viz:

"AMSTERDAM, June 27, 1794.

"SIR: I am made happy by the opportunity of tendering to you my congratulations on your safe arrival in Europe, which I beg you to accept of, accompanied with my cordial wishes for the success of your mission, as involving the most important interests of our country.

"I am sorry to observe that the conduct of this Government of late (though perhaps more equivocal than that which has been pursued by Great Britain) must operate as a very serious injury to the commerce of America. In the face of express stipulation of Treaty, they have prohibited us from taking away nearly all the articles for which we have a demand, and many others, unless on condition of giving heavy bonds that they shall be landed in America, or rather, not in France. In short, such are the troubles and vexations

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which burden our intercourse with them, that our vessels are generally obliged to depart in ballast.

"We have no friend or assistant here, clothed with public authority, to whom we can resort for advice or protection on the points alluded to; but should it be within the latitude of your powers to remonstrate, I doubt not the issue would be favorable.

"Persuaded that you will not ask an apology for what has been prompted by a sense of duty to my country, I forbear to make one for the trouble I give you by this communication, and pray you to be assured of those sentiments of profound respect and esteem with which I have the honor to be, &c., &c.,

"S. BOURNE.

"Hon. JOHN JAY, Esq." &c. &c.

"LONDON, July 5, 1794.

"SIR: I have been favored with yours of the 27th of last month; accept my thanks for the friendly congratulations contained in it.

"That the President may be informed of the facts you mention, I shall take the liberty of transmitting a copy of your letter to the Secretary of State.

"Not being within the limits of my commission, I cannot with propriety interfere by making any representations on these subjects. With the best wishes for your health and happiness, I am, sir, &c., &c., "J. J.

"SYLVANUS BOURNE, Esq., Amsterdam.

July 8, 1794. Nothing new has occurred since the foregoing letter was written.

I have the honor to be, &c.,

JOHN JAY.

*Mr. Randolph to Mr. Jay.*

PHILADELPHIA, July 9, 1794.

SIR: The object of this letter is simply to meet some violent representations which have probably been hurried to Great Britain from Bermuda, that their impression might be free to operate for some time without contradiction. For it is a lamentable thing to believe, with too much reason, that, in general, the agents of Great Britain in America are gratified when they can cast a distant suspicion upon our neutrality. I cannot forbear to remark how singular it is, that the Governor of Bermuda has not forwarded to Mr. Hammond any of the proofs which are said to be possessed by him; and that Mr. Hammond has imparted the little which he knew, only on a special application, as if both the one and the other were afraid of enabling us to vindicate our character.

During the existence of our embargo, Mr. Hammond obtained a passport for his despatches to London, by the way of Halifax. A similar privilege being requested by Mr. Fauchet for Port au Paix, a passport was granted, with an express injunction that the vessel, which was called L'Aimable, or L'Aimable Gentille, should proceed in ballast. We never heard more of her, until, on the 30th ult., intelligence arrived of her

having been captured with one hundred and fifty barrels of powder on board. Hence arose the different letters and documents, displaying the whole of our conduct up to this day. If, before this letter is put on board of the vessel which is to carry it, anything else shall occur, it will be added. If not, be assured that you may, with the utmost confidence, declare, that we will not relinquish the investigation until we procure all the proof in our power, and whatsoever punishment the laws inflict on any person found culpable, shall be inflicted. I can hardly suppose that the British Ministry, after such manifestations of our sincerity, will be hastily caught by appearances. No law prohibited the exportation of powder, the resolution of embargo excepted, at the time of the sailing of L'Aimable; and to suspect that Government would, if inclined to aid the French resistance to the combined Powers, resort to so petty a manœuvre, would look strongly like a predetermined rancor. Government disclaims the idea.

I have the honor, sir, to be, with sincere esteem and respect, &c.,

EDM. RANDOLPH.

*Mr. Jay to Mr. Randolph—No 5.*

LONDON, July 9, 1794.

SIR: On the 6th instant I had the honor of writing you a long and particular letter; it was closed yesterday by a postscript informing you that nothing new had occurred.

This morning I received, by the post from Dover, a letter which I suppose was there put into the office from an American vessel lately arrived. I presume it was from your office; it contained a copy of the acts passed during the late session of Congress, but no letter was enclosed with it.

The events which gave occasion to your late correspondence with Mr. Hammond, and the expiration of the embargo, are circumstances which rendered me solicitous to receive from you official accounts of them, as in that case I might have made them the subjects of an interesting and perhaps useful communication to the Minister. Doubts of the propriety of grounding it on newspaper evidence, and the daily expectation of receiving letters from you, which might contain not only information but instructions, have induced me to decline writing or saying anything officially on those subjects. I suspect that your letters are still on the way, and will soon arrive.

A new arrangement of the Ministry has, it is said, taken place, and will soon be announced; the enclosed paper will inform you of the particulars: if true, it will give strength to the Administration by uniting the leaders of the contending parties.

As yet I have received no answer to my letter of the third instant to the Minister. It is not improbable that the operation of this change in the Ministry has occasioned the delay, as the concurrence and counsels of the new Ministers would be necessary to the stability of any system relative to us that may be in contemplation. What that system may be, I cannot pretend to predict



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or even conjecture: and, therefore, again take the liberty of hinting, that, in my opinion, our preparations for war should continue unremitted.

The merchants here, it seem, entertain sanguine expectations that all differences will be amicably settled, and I believe that the Ministry has encouraged and countenanced these expectations, though not in a manner so explicit and decided as to have committed themselves. At present, things appear to me to be so circumstanced as that neither a hostile nor a pacific system would surprise me. You shall be regularly and accurately informed of every change that may happen in the prospect of either. And I think it will not be difficult so to manage as that, in case of a war, our people will be united, and their people divided. This will certainly be the case if we do nothing but what is just and right.

I have the honor to be, with great respect, &c.,  
JOHN JAY.

*Mr. Randolph to Mr. Jay.*

PHILADELPHIA, July 10, 1794.

SIR: You will receive, by this conveyance, a supplement to the cases of British spoliations, the very abridgment of which makes a large quarto volume in my office: and also duplicates of my letters of 27th, 28th, 29th May, and 8th June.

I have been endeavoring to obtain the particulars of the different instances of capture, covered, as the Americans say, by the armistice; but not being able to succeed, I have selected so much of Pagan's case, which you know was brought before the Supreme Court of the United States in another shape, as will give an idea of the general principle of these cases. Some proctor can easily procure full information of the several cases, if your success in the discussion of the principle should render it necessary.

It is an exceedingly happy circumstance for the peace of nations, that they are not obliged to credit the facts or reasoning of their Ministers abroad; that they can distinguish their zeal to seem watchful, their irascibility, and the errors into which they have fallen or have been misled, from a temper of hostility in the nation to which they are sent. How far this is fortunate for us, with respect to Great Britain, will be evinced from my correspondence with Mr. Hammond, upon the rule of twenty-four hours for the sailing of hostile vessels from our ports, and upon his list of charges against our fidelity to the obligation of neutrality. We have too much reason to fear, from the boldness with which he assumes facts to us, he will be less restrained in his declarations to the British Ministry. As often, therefore, as you shall be assailed by any strong intelligence, I must request you to keep off any conclusions from being made, until you shall have an opportunity of hearing from my office: for our unalterable desire of peace will not only quicken our communications to you, but authorize me to pronounce beforehand, that the Government can never be chargeable with any wilful breach of neutrality; and, indeed, notwithstanding Mr. Hammond's insinua-

tions, with any negligence in preserving it inviolate. The papers as to the Charles and Delight, will be a fresh testimony of this assertion.

I have the honor, sir, to be, &c.,  
EDM. RANDOLPH.

*Mr. Jay to Mr. Randolph—No. 6.*

LONDON, July 12, 1794.

SIR: I had yesterday the honor of seeing Lord Grenville. He assured me that no unnecessary delays should retard a full discussion of the points in question; and observed that the new arrangement of the Ministry involved the necessity of time for their being all informed and consulted. In this assurance I have perfect confidence.

We had an informal conversation relative to Simcoe's hostile measure. We concurred in opinion that, during the present negotiation, and until the conclusion of it, all things ought to remain and be preserved in *statu quo*; that, therefore, both parties should continue to hold their possessions, and that all encroachments on either side should be done away; that all hostile measures (if any such should have taken place) shall cease; and that, in case it should unfortunately have happened that prisoners or property should have been taken, the prisoners shall be released, and the property restored. And we have agreed that both Governments shall immediately give orders and instructions accordingly.

This agreement appears to me so perfectly reasonable, and so conducive to the preservation of mutual confidence and good temper, that I flatter myself it will meet with the President's approbation; and I have given Lord Grenville explicit assurances (which he has reciprocated) that, on the part of the United States, it will be faithfully observed and fulfilled.

I have the honor to be, &c.,  
JOHN JAY.

*Mr. Jay to Mr. Randolph—No 7.*

LONDON, July 16, 1794.

SIR: In my last letter, viz: of the 12th instant, I had the honor of stating to you, particularly, an agreement between Lord Grenville and myself, for preserving all things between the United States and our Canadian neighbors, in a peaceable state during the negotiation. Yesterday Lord Grenville read to me what he had written to Mr. Hammond on that subject; it exactly corresponded with what I had written to you in my letter of the 12th. His Lordship desired I would take charge of his letter, and give it a place among my despatches to you. I received it from him last night; it will be herewith enclosed. You will, I am persuaded, take particular care that it be delivered speedily and in good order. Correspondent letters and orders will doubtless be expedited directly to Lord Dorchester and Mr. Simcoe, by the first packet.

The arrival and obvious effects of such letters and orders cannot fail to have a favorable influence on the hostile Indians; as their expectations

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of aid abate and diminish, their disposition to peace will increase, and become operative.

It was not until the 14th instant that the Captain of the William Penn knew that there was a box on board directed to me; in the afternoon of that day I received it, and found your letters to me of the 27th and 28th May, and a note covering a list of the papers sent in the box. As yet I have not had leisure to compare the papers with the list. On opening one or two cases of spoliation, I find several papers not important for me to have; plain, concise statements are sufficient, and best for diplomatic purposes. I am glad that these cases are come: after making the necessary selections and statements, I will lay them before the Minister.

I have also had the pleasure of receiving your letters of the 29th May and 8th June. With the former was a list; but really, sir, I have not yet had time to compare the papers with the list, nor to prepare myself for writing to you on the subject of those letters at present.

I have the honor to be, &c.,

JOHN JAY.

*Mr. Randolph to Mr. Jay.*

PHILADELPHIA, July 18, 1794.

SIR: The enclosed letter from Mr. Higginson, of the 18th ultimo, gives me reason to suppose that the opportunities from Barbadoes to London may not be sufficiently frequent for the conveyance of the documents which he is sent to collect. I have, therefore, the honor of enclosing to you the records of the brig Despatch, schooner Trial, schooner Hope, (Farley,) schooner Hope, (Felt,) schooner Resolution, brig Lady Washington, sloop Ranger, schooner Polly, and schooner Fox; and to be, with great respect and esteem, &c.,

EDM. RANDOLPH.

*Mr. Jay to Mr. Randolph—No. 8.*

LONDON, July 30, 1794.

SIR: The great, and, I believe, unexpected events in Flanders, and the unusual number of interesting affairs which constantly demand the attention of the British Cabinet, keep their Ministers unceasingly employed, and is, doubtless, one reason why more time has not been allotted to our concerns. We are, nevertheless, beginning to do business apparently in good earnest. The Minister is (if I may say so) besieged by our British creditors. The subject of the debts is attended with difficulties. The Minister has been informed that the law in Virginia relative to the evidence of book debts has, since the war, been made more strict than it was before. If the law has been thus changed, and made to apply to pre-existing transactions, there is room for complaint. I wish to have exact information on this head.

I am to see Lord Grenville to-morrow at 11 o'clock, by appointment, on the business of spoliations and impressments, when I hope he will be prepared to say something decisive. I have laid before him several of the cases you sent me, and also, the statement by the captains of vessels taken

at Martinique. Of the facts mentioned in the latter, he had never received any information.

I know the impatience that must prevail in our country. At times, I find it difficult to repress my own impatience; but for all things there is a season. The importance of moderation and caution in the present moment is obvious, and will, it is to be hoped, continue to operate on the minds and conduct of our fellow-citizens. As yet, I do not apprehend that I have committed any mistakes in this business. I wish I may be able to say as much at the conclusion of it.

I have read your thirty odd papers to, and from, and respecting, Mr. Hammond and his complaints. You have, in my opinion, managed that matter well; continue, by all means, to be temperate, and put him in the wrong.

Let us hope for the best, and prepare for the worst. I confess I have hopes, but I also perceive circumstances and causes which may render them abortive.

This letter cannot be satisfactory; it amounts to little more than this: That nothing decisive has yet been done, and that I cannot tell you whether anything, and what, will be done. So is the case; and such will often be the case pending any negotiation, or any game connected with events not in our power to control. In both, chances frequently defeat skill, and as frequently give to skill unmerited reputation. For these things I must take my chance.

I have the honor to be, with great respect, &c.,

JOHN JAY.

*Mr. Randolph to Mr. Jay.*

PHILADELPHIA, July 30, 1794.

SIR: I do myself the honor of enclosing to you a copy of my last letter to Mr. Hammond, together with the following duplicates, viz: May 27th, 28th, and 29th, June 8, July 5, with its enclosures.

The reports of a determination in the British to abet the Indians, grow daily more and more serious; and there is great reason to apprehend that British troops will be found mixed with the savages, who are prepared to meet Gen. Wayne.

The gazette of Mr. Bache, published on the 26th day of this month, will give you all the information which we have yet received of a very unfortunate tumult near Pittsburg. The President has not yet acted upon the subject, as authentic facts are not yet before him.

I have the honor to be, &c.,

EDM. RANDOLPH.

*Mr. Jay to Mr. Randolph—No. 9.*

LONDON, July 31, 1794.

SIR: My letter of yesterday informed you that I should, this day, at 11 o'clock, see Lord Grenville on the subject of spoliations, &c. I have seen him accordingly. Having presented to him an official note on this object of my mission, it became the topic of our conversation. He promised to send me a written answer to-morrow, and I am induced to believe it will, in some re-

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spects, meet our wishes, but that it will not extend to immediate compensation by Government; and yet, that it will include eventual compensation in all cases where the ordinary course of appeals, &c., may not afford it. On receiving this answer I shall immediately write to you again, and enclose copies both of my note and of the answer to it.

I have the honor to be, &c.,

JOHN JAY.

P. S. I think our affairs here assume a more promising aspect.

*Mr. Jay to Mr. Randolph—No. 10.*

LONDON, August 2, 1794.

SIR: I had the honor of writing to you on the 31st ult. That letter was sent to Falmouth in hopes it would reach Dr. Edwards before he sailed from thence for Boston. He went from hence on Tuesday last. I now enclose a copy.

That letter mentioned my having presented an official representation to Lord Grenville on the subject of spoliations, &c., to which his Lordship had given me reason to expect an answer in a day or two. I have accordingly received it, and now take the first opportunity which has since offered, of transmitting to you (herewith enclosed) copies of them both.

The footing on which the answer places compensation by Government affords scope for delay. Much will depend on the good faith with which the business may be conducted. The present Administration does not appear to me to be hostile to us, but the contrary. As to Lord Grenville, it is doing him no more than justice to say, that, from the commencement of the negotiation, I have observed no change in his conduct, which has been uniform, candid, and conciliatory. From hence, however, no inferences are to be drawn, that, in my opinion, an ultimate settlement, satisfactory to either party, can or will take place. To such a settlement (speaking in general terms) I do believe that this country, as well as ours, is disposed, but there are real difficulties, as well as some prejudices, which stand in the way. I am not without hopes that such a settlement will be effected, but am not sanguine in my expectations; for, in all *accommodations*, there must be yieldings; and questions relative to the due degree and reciprocity of such yieldings, by one side or the other, may produce great, and, perhaps, insuperable obstacles.

It is very desirable that the negotiation may not suffer from useless and improper asperities of any kind, on either side; and that the conduct of our fellow-citizens may constantly harmonize with that of their Government—by wisdom and moderation, endeavoring to preserve and cultivate peace and friendship, and yet preparing to meet hostile events with composure, firmness, and vigor.

I have the honor to be, &c.,

JOHN JAY.

*Mr. Jay's representation to Lord Grenville.*

The undersigned, Envoy of the United States of America, has the honor of representing to the

Right Honorable Lord Grenville, His Britannic Majesty's Secretary of State for the Department of Foreign Affairs:

That a very considerable number of American vessels have been irregularly captured, and as improperly condemned by certain of His Majesty's officers and judges.

That, in various instances, these captures and condemnations were so conducted, and the captured placed under such unfavorable circumstances, as that, for want of the securities required, and other obstacles, no appeals were made in certain cases, nor any claims in others.

The undersigned presumes that these facts will appear from the documents which he has had the honor of submitting to his lordship's consideration; and that it will not be deemed necessary, at present, to particularize these cases, and their merits, or detail the circumstances which discriminate some from others.

That great and extensive injuries having thus, under cover of His Majesty's authority and commissions, been done to a numerous class of American merchants, the United States can, for reparation, have recourse only to the justice, authority, and interposition of His Majesty.

That the vessels and property, taken and condemned, have been chiefly sold, and the proceeds divided among a great number of persons, of whom some are dead, some unable to make retribution, and others, from frequent removals, and their particular circumstances, not easily reached by civil process.

That as, for these losses and injuries, adequate compensation, by means of judicial proceedings, has become impracticable, and considering the causes which combined to produce them, the United States confide in His Majesty's justice and magnanimity to cause such compensation to be made to these innocent sufferers as may be consistent with equity; and the undersigned flatters himself that such principles may, without difficulty, be adopted, as will serve as rules whereby to ascertain the cases, and the amount of compensation.

So grievous are the expenses and delays attending litigated suits, to persons whose fortunes have been so materially affected, and so great is the distance of Great Britain from America, that the undersigned thinks he ought to express his anxiety that a mode of proceeding as summary and little expensive may be devised as circumstances and the peculiar hardship of these cases may appear to permit and require.

And as (at least in some of these cases) it may be expedient and necessary, as well as just, that the sentences of the Courts of Vice Admiralty should be revised and corrected by the Court of Appeals here, the undersigned hopes it will appear reasonable to His Majesty to order that the captured in question (who have not already so done) be there admitted to enter both their *appeals* and their *claims*.

The undersigned also finds it to be his duty to represent that the irregularities before mentioned extended not only to the capture and condemna-

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tion of American vessels and property, and to unusual personal severities, but even to the impressment of American citizens to serve on board of armed vessels. He forbears to dwell on the *injuries* done to the unfortunate individuals, or on the *emotions* which they must naturally excite, either in the breast of the nation to whom they belong, or of the just and humane of every country. His reliance on the justice and benevolence of His Majesty leads him to indulge a pleasing expectation that orders will be given that Americans so circumstanced be immediately liberated, and that persons honored with His Majesty's commissions do in future abstain from similar violences.

It is with cordial satisfaction that the undersigned reflects on the impressions which such equitable and conciliatory measures would make on the minds of the United States, and how naturally they would inspire and cherish those sentiments and dispositions which never fail to preserve, as well as produce respect, esteem, and friendship.

JOHN JAY.

LONDON, July 30, 1794.

*Lord Grenville's reply.*

DOWNING STREET, Aug. 1, 1794.

The undersigned, Secretary of State, has had the honor to lay before the King the Ministerial note which he has received from Mr. Jay, Envoy Extraordinary and Minister Plenipotentiary from the United States of America, respecting the alleged irregularity of the capture and condemnation of several American vessels, and also respecting the circumstances of personal severity by which those proceedings are stated to have been accompanied in some particular instances.

The undersigned is authorized to assure Mr. Jay that it is His Majesty's wish that the most *complete and impartial justice* should be done to all the citizens of America who may in fact have been injured by any of the proceedings above mentioned. All experience shows that a naval war, extending over the four quarters of the globe, must unavoidably be productive of some inconveniences to the commerce of neutral nations, and that no care can prevent some irregularities in the course of those proceedings which are universally recognised as resulting from the just rights incident to all belligerent Powers. But the King will always be desirous that these inconveniences and irregularities should be as much limited as the nature of the case will admit, and that the fullest opportunity should be given to all to prefer their complaints, and to obtain redress and compensation where they are due.

In Mr. Jay's note, mention is made of several cases where the parties have hitherto omitted to prefer their claims, and of others where no appeals have been made from the sentences of condemnation pronounced in the first instance.

As to the cases of the *first* description, Lord Grenville apprehends that the regular course of law is still open to the claimants; and that, by preferring appeals to the Commissioners of Prize

Causes here, against the sentence of the Courts below, the whole merits of those cases may be brought forward, and the most complete justice obtained.

In the cases of the *second* description, the proceedings might, in some instances, be more difficult, from the lapse of time usually allotted for preferring appeals. But His Majesty being anxious that no temporary or local circumstances, such as those to which Mr. Jay refers to in his note, should impede the course of substantial justice, has been pleased to refer it to the proper officers, to consider of a mode of enlarging the time for receiving the appeals in those cases, in order to admit the claimants to bring their complaints before the regular Court appointed for that purpose.

The undersigned has no doubt that, in this manner, a very *considerable part* of the injuries alleged to have been suffered by the Americans may, if the complaints are well founded, be redressed in the usual course of judicial proceeding, at a very small expense to the parties, and without any other interposition of His Majesty's Government than is above stated. Until the result and effect of these proceedings shall be known, no *definitive* judgment can be formed respecting the nature and extent of those cases (if any such shall ultimately be found to exist) where it shall not have been practicable to obtain substantial redress in this mode. But he does not hesitate to say, beforehand, that, if cases shall then be found to exist to such an extent as properly to call for the interposition of Government, where, without the fault of the parties complaining, they shall be unable, from *whatever circumstances*, to procure such redress, in the ordinary course of law, as the justice of their cases may entitle them to expect, His Majesty will be anxious that *justice* should, at *all events*, be done, and will readily enter into the discussion of the *measures* to be adopted, and the *principles* to be established for that purpose.

With respect to all acts of personal severity and violence, as the King must entirely disapprove every such transaction, so His Majesty's Courts are always open for the punishment of offences of this nature; and for giving redress to the sufferers in every case where the fact can be established by satisfactory proof; nor does it appear that any case of that nature can exist where there would be the smallest difficulty of obtaining, in that mode, substantial and exemplary justice.

On the subject of *impress*, Lord Grenville has only to assure Mr. Jay that, if, in any instance, American seamen have been impressed into the King's service, it has been *contrary* to the King's desire; though such cases may have occasionally arisen from the difficulty of discriminating between British and American seamen, especially where there so often exists an interest and intention to deceive. Whenever any representation has been made to Lord Grenville on this subject, he has never failed to receive His Majesty's commands for putting it in a proper course, in order that the facts might be inquired into and ascertained; and to the intent that the persons in ques-

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tion might be released, if the facts appeared to be satisfactorily established.

With respect to the desire expressed by Mr. Jay that new orders might be given with a view to prevent, as far as it is possible, the giving any just ground of complaint on this head, Lord Grenville has no reason to doubt that His Majesty's intentions respecting this point are already sufficiently understood by His Majesty's officers employed on that service; but he has, nevertheless, obtained His Majesty's permission to assure Mr. Jay that instructions to the effect desired will be renewed, in consequence of his application.

The undersigned avails himself, with pleasure, of this opportunity to renew to Mr. Jay his assurances of his sincere esteem and consideration.

GRENVILLE.

*Mr. Jay to Mr. Randolph.—No. 11.*

LONDON, August 8, 1794.

SIR: I refer you to my letter No. 10, and its enclosures, by Captain Coit, via New York, of which duplicates are also sent by the William Penn.

Having understood that one of our Indianmen had been captured and sent to Halifax, I mentioned it to Lord Grenville. He readily promised to write by the packet, and direct the attention of the Government there to that object, so that nothing improper may take place. My present prospects are not discouraging. I expect to be able, in about a fortnight, to give you some interesting details; and I *hope* some of them will be *agreeable*, but of this I cannot be *certain*.

I have the honor to be, &c.,

JOHN JAY.

P. S. The Pigou is arrived. I have not yet seen the Captain; he probably has letters for me.

*Mr. Jay to Mr. Randolph.—No. 12.*

LONDON, August 9, 1794.

SIR: Last evening I received from Lord Grenville an Order of the King and Council, dated the 6th instant, relative to appeals from sentences of condemnation passed against American vessels. The enclosed is a copy of it. I have employed Sir William Scott and Dr. Nicholl in behalf of our appeals and claims.

The letter which (from that by Mr. Fisher) I find you have written me by the Pigou, has not yet reached me.

I have the honor to be, &c.,

JOHN JAY.

AT THE COURT OF ST. JAMES'S,

August 6, 1794.

Present: The King's Most Excellent Majesty in Council.

Whereas, in many of His Majesty's Vice Admiralty Courts in the West Indies, sentences of condemnation have passed against ships and goods belonging to the subjects of the United States of America; and whereas, from ignorance of the

rules respecting the time of appealing, or from inability to find the security required, or from other just and reasonable impediments, the claimants have been prevented from duly entering and prosecuting their appeals from the said sentences; and whereas it hath been represented to His Majesty, on their behalf, that they are desirous of entering and prosecuting the same: His Majesty is thereupon pleased, by and with the advice of his Privy Council, to order, and it is hereby ordered, that the said parties shall be admitted to their respective appeals, notwithstanding the ordinary times for entering and prosecuting the same may have elapsed; provided the same are entered and prosecuted in a reasonable time, to be approved of by the Lords Commissioners of Appeals in Prize Causes.

STEPHEN COTTRELL.

*Mr. Randolph to Mr. Jay.*

PHILADELPHIA, August 11, 1794.

SIR: Having regularly transmitted to you copies of my late correspondence with Mr. Hammond, in relation to Lord Dorchester's speech, Governor Simcoe's invasion, and his own criminalations of the United States, I now do myself the honor of adding his concluding letter of July 30, 1794. If he wishes any new evidence of our unchangeable neutrality, he may be told, and the British Ministry likewise, that the militia of Richmond, in Virginia, actually marched, at a moment's warning, between seventy and eighty miles, to seize a vessel supposed to be under preparation as a French privateer. Resistance was at first apprehended; but it was overawed, and the business completely effected.

The discontents, evasions, and occasional oppositions, which have been manifested against the excise in the counties of Pennsylvania westward of the Alleghany mountain, have at length assumed a menacing and formidable air. The enclosed paper contains the President's proclamation, which is a summary of facts, except that Neville's house and out-houses were destroyed by fire. Commissioners are gone upon the ground, and particularly to be present at a great meeting on the 14th instant. Upwards of twelve thousand militia are ordered to hold themselves in readiness; and if the errand of the Commissioners should be unavailing, the militia will, I believe, be commanded to proceed. The experiment upon their temper is untried. The Governor of Pennsylvania is against the calling forth of the militia until more formal legal measures are pursued. He, too, has sent two Commissioners on the part of the State, and has called the Assembly for the first of September ensuing. But he has expressed his persuasion that a sufficiency of militia of the State cannot be prevailed on to move forward. Hence proportions of the number required will be procured from Virginia, Maryland, and Jersey, as well as Pennsylvania. The temper of the militia is not yet developed; some, however, vibrate between hatred of the excise and horror of these unauthorized violences. At present it can only be said,



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that, if an accommodation does not take place, a new era will immediately spring up in our Government.

The letter from Clerke and Bentalou, of Baltimore, the papers of the snow Sukey, ship Charlotte, sloop Sally, schooner Fame, brig David and George, schooner Friendship, and schooner Sarah, brig Union, Captain Cottle, and brig Dolphin, Captain Knapp, are additions to the cases of spoiliations, and now sent.

I have the honor to be sir, &c.,

EDMUND RANDOLPH.

P. S. I ought to have mentioned the death of Mr. N. C. Higginson, who was sent to the West Indies to collect documents. This may occasion some delay and disappointment in the transmission of them to London. The spoiliations are unavoidably detained for another conveyance.

*Mr. Randolph to Mr. Jay.*

PHILADELPHIA, August 15, 1794.

SIR: Mr. James King, the owner of the schooner Nancy, the papers in whose case have been forwarded, as far as they were received, has this moment laid before me a copy of the record. From the whole proceedings, it appears that she was acquitted at Nassau upon the payment of costs, and that the captors have appealed. As this vessel and her cargo come within the catalogue of spoiliations, I have to request that they may be protected by your attention, and that you will give directions for the employment of counsel in behalf of the United States, unless some adjustment which you may make with the British Ministry, on general grounds, shall supersede the necessity of such a step.

I have the honor, sir, to be, &c.,

EDMUND RANDOLPH.

*Mr. Randolph to Mr. Jay.*

PHILADELPHIA, August 18, 1794.

SIR: I had the honor of receiving, on the 16th instant, your first letter of the 23d of June, from London, and, on the 17th instant, your first letter of the 9th of June, from Falmouth. Both of them came by the Active, Captain Blair, but the latter was brought, more expeditiously, by Mr. Francis, than the former, which was delivered out with the other letters in the bag of the ship.

It has given great pleasure to the President to hear of your safe and speedy arrival, and of the style of your reception by the Minister. You know the temper and conduct of the President so thoroughly, that I need not assure you of the impartiality which he continues to preserve towards all nations: and yet the irritation from the British quarter has been exceedingly aggravated. I pass over Lord Dorchester's speech, which, notwithstanding the half disavowal of it in the British Houses of Lords and Commons, on the 26th of May last, is believed by everybody here to be genuine, and is argued upon, as you will perceive, in Mr. Hammond's two letters to me, of the 22d May and 7th June, as if it were rather genuine

than otherwise. But Governor Simcoe's invasion of the Rapids of the Miami, comes confirmed to us from every source, except Mr. Hammond, who has had near three months for ascertaining the fact, and whose silence during that time, after his promise to inform us of the truth, is the highest presumption of the act of hostility. So, too, the enclosed copies, from the War Office, prove that the British were associated with the Indians in the affair of Fort Recovery, on the 30th of June. We cannot add, upon proof, that British influence has been tampering with the people of Kentucky, and of the neighborhood of Pittsburg, to seduce them from the United States, or to encourage them in a revolt against the General Government; it has, however, been boasted of by them, and an expectation of such support is suspected to have been excited in the breasts of some.

The impression of our Commissioners, and those of the State of Pennsylvania, upon the insurgents near Pittsburg, cannot be yet known, and we can transmit to you no other indications of the issue of this commotion than what may be drawn from my letter of the 11th of August.

The enclosed copy of Mr. Hammond's letter of the 14th of August, with its enclosure, will be justly appreciated, when you advert to those of my former letters which speak of his facility of complaining. But we shall again demonstrate the promptness with which we exert ourselves to redress his grievances, real or supposed, as an injunction will be immediately despatched to the several Governors to grant to the British ships the most complete hospitality consistent with our stipulations to other nations. The particular case to which he alludes will be consigned to the special attention of the Governor of Delaware.

The letters which I have written to you, since your departure, are of the following dates: May 27, 28, 29; June 8, 9; July 9, 10, 18, 30; August 11. I now enclose duplicates of the four last mentioned, together with sundry other papers, agreeably to the enclosed list; duplicates of all the others having been formerly sent.

I have the honor to be, &c.

EDMUND RANDOLPH.

*Mr. Jay to Mr. Randolph—No. 13.*

LONDON, August 21, 1794.

SIR: I have received the letter you did me the honor to write on the 9th June, enclosing the case of the snow Sukey, and of the brigantine Maria. That letter begins thus: "Since writing of my letter yesterday, I have received," &c. That letter has never come to my hands.

A few days ago I was favored with yours of the 9th July, on the subject of the American vessel carried into Bermuda, and on board of which a large quantity of powder was found, and enclosing copies of several letters relative to it. That letter appeared to me to be well calculated to manifest the sincerity of the Government, and evidently shows a disposition rather to invite than to evade an investigation into every transaction that afforded color for complaint. I therefore thought it ex-

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pedient to communicate it, and all the papers which accompanied it, to the Minister, without diminution.

Since my last, nothing new has occurred. We are endeavoring to digest and mature a final settlement; whether we shall be able to agree is uncertain; I have hopes as well as apprehensions. I think our next conference will produce something decisive, at least on some of the great points. If so, you shall be immediately informed of it.

Considering how many urgent affairs, which cannot be postponed, daily call for the Minister's orders, we cannot expect that ours should proceed without some occasional delays. As yet, I have no reason to believe that any of them have been avoidable.

Sir William Scott, the King's Advocate, who is retained for us, is, at my request, preparing instructions for our people how have claims or appeals to bring forward. When finished, they shall be sent to you. I really do believe that this business will be conducted and concluded with good faith. At Martinico there was no legal Court of Vice Admiralty; consequently, the condemnations there are nugatory, and original claims may be entered and prosecuted here.

I have the honor to be, &c.,

JOHN JAY.

*Mr. Jay to Mr. Randolph—No. 14.*

LONDON, August 23, 1794.

SIR: When you shall have received my letter enclosing copies of my representation to Lord Grenville, on the subject of captures, and of his answer, and a subsequent letter enclosing a copy of the Order of Council respecting appeals and claims, you will perceive that they who wish to prosecute either, should, without delay, appoint agents here to manage their business, and to whom I may deliver such papers in my possession as relate to those cases of capture which may be committed to their care and direction.

I am inclined to think that the Order of Council alone will not be satisfactory to the claimants; and, therefore, that the representation, and the answer to it, and, perhaps, my letter No. 10, of the 2d August, covering them, should be published at large. But of this, the President and you, who are on the spot, will be better able to judge than I can be.

I heard yesterday that Mr. Monroe had arrived at Paris. Be so good as to inform me, from time to time, which of my letters and also the duplicates (for, of some, duplicates have been sent) come to your hands.

I have the honor to be, &c.,

JOHN JAY.

*Mr. Randolph to Mr. Jay.*

PHILADELPHIA, Aug. 30, 1794, 1 o'clock.

SIR: The treatment which American vessels have experienced from the warring Powers causes a general concealment of their departure, so that I am frequently obliged to snatch an opportunity

at a moment's warning. This is the case at present. Having just heard of a vessel ready to sail from New York, I shall despatch an express at two o'clock, P. M., which I hope will reach her.

Last night we received from Captain Williamson, living at Sodus, in Ontario county, in the State of New York, the enclosed letter, containing the most unwarrantable and insolent demand from Governor Simcoe, through Lieutenant Sheaff, that he should desist from the prosecution of his settlement there. The original, now in my office, may be proceeded on as authentic. Sodus is probably well known to you. If it be not, I add the only information which I can obtain of its position; that it lies between Oswego, on Lake Ontario, and Niagara, about twenty-five miles from the former, and nearly three times that distance from the latter. What might we not be justified in saying or doing on this new aggression? Mr. Hammond has promised to procure the truth of the report as to Governor Simcoe's seizure of the Rapids of the Miami; but, with a full scope of time, he remains silent, while it is firmly believed that British troops were associated with the Indians in the late attack on Fort Recovery; and it is certain that the British Governor of Upper Canada threatens us if we clear our own lands and build houses to shelter our laborers. The admonition, sir, which your letter of June 23d gives, to prevent the arrival of any irritating intelligence in London, is but a comment upon the unvaried policy of the President, and of every member of the Administration. This is evidenced by the step on which the President has now resolved, which is, to transmit copies of the papers to Mr. Hammond, now at New York, (where he has been for a considerable time, and whither he went, after an intermission of visits to the President for more than two months, without taking leave of him, further than his notification to me might be considered as such,) to afford to him an occasion to explain this procedure away, or, or if he should perchance have power, to check it; to inform Captain Williamson that he is right in his determination to push on his settlement, and that the owner of lands may repel force brought by an invader; and to offer to the Governor of New York, on loan, arms for the purposes of defence. My letter to Mr. Hammond cannot be prepared early enough for the express; but it will not be required as in any manner immediately useful to you, since the outrage of the principle asserted in Governor Simcoe's challenge will instantaneously occur to you; and compared with similar acts on the part of the British will establish our love of peace in triumph over the calumnies which British agents, indisposed to us from interest or other motives, may propagate on the other side of the Atlantic.

My late letters have announced to you the insurrection at Pittsburg, and with the gazettes which have been forwarded gave you the real state of the business up to the 17th instant. At that time, the Commissioners wrote that nothing but the physical force of the nation could subdue it. The President, in consequence of this declaration, arranged the march of the militia. But

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you will perceive how the gloom of bloodshed is brightened by their letters of the 21st and 22d instants, with their enclosures, copies of which I have now the pleasure of transmitting to you. We may count upon an express from Pittsburg in the course of this day, which will enable us to judge whether any difficulty can have arisen in the detail spoken of. But I flatter myself that this event will close with a return of harmony; will demonstrate the horror of our citizens at an opposition to laws; will prove that the Government can protect itself against insult and rebellion, and will be an era of stability in our affairs. While I wish that the rashness and delusion of some, and the deliberate wickedness of others, had not plunged us into such dangers, I must confess my belief that the catastrophe will show that there is a point—the point of actual opposition to Government—concerning which the desperate may prate with indifference, but at which the very great majority of our citizens shudder.

By the present conveyance, I repeat some of my former letters, with various enclosures. The newspapers are also sent.

I have the honor, sir, to be, &c.,

EDMUND RANDOLPH.

Shall I beg the favor of you to show this letter to Mr. Pinckney, to whom I cannot in my hurry write at this moment.

*Mr. Randolph to Mr. Jay.*

PHILADELPHIA, Sept. 5, 1794.

SIR: I write only to enclose to you copies of the papers respecting the commotion at Pittsburg, and of my letter to Mr. Hammond on the 1st instant, and his answer to me on the 3d, concerning the settlement at Greatodus.

We have reason to expect the conclusion of the insurrection without bloodshed, but we are hourly looking for more particular intelligence of the proceedings at Redstone on the 25th ultimo. These will be indicative of the final issue.

I have the honor to be, &c.,

EDMUND RANDOLPH.

*Mr. Randolph to Mr. Jay.*

PHILADELPHIA, Sept. 12, 1794.

SIR: It is said that a vessel will sail from hence on Sunday next for Liverpool, and I cannot lose this chance of conveying to you the acknowledgment of your letters of the 26th June, and duplicate of June 23, and the real state of the insurrection at Pittsburg at this moment.

The gazettes sent by a former opportunity, together with those now enclosed, will inform you of the facts. To guide you more certainly, I will refer to the following dates of Dunlap's paper: For the President's Proclamation, see the paper of the 8th August; for the statement of the Secretary of the Treasury, see 21st August; for the proceedings at Parkinson's Ferry, and with the first committee, see Bache's paper of the 6th September; for the proceedings at Redstone, and with the new committee, see the paper of this day.

Yesterday the votes of the people were to be taken on the question of resistance or submission. Mr. Bradford, the Attorney General of the United States, came to town last evening, having left his colleague (Mr. Ross) to be present at Uniontown, in Fayette county, on the 16th, when the report of those votes is to be made to him.

Mr. Bradford is of opinion that the county of Alleghany will be nearly, if not wholly, unanimous for submission; that Fayette county will approach considerably to unanimity; that Westmoreland is very doubtful; and that Washington will probably hold out.

What can be the hopes of the insurgents, with all the men of influence and property residing in those counties against them—without money, without discipline, with no distinguished skill in the use of fire-arms; with no disposition to pay taxes; with no communication with the sea; with no markets for their produce, except in the Atlantic States; with a feeble population; with the certainty of punishment before them, or the necessity of flight from their possessions; without ammunition, and even arms? Mr. Bradford thinks that scarce five hundred will take the field.

Nor can the insurgents expect anything from the sympathy of other States. On the contrary, they have everything to dread. Virginia will readily produce her quota of the fifteen thousand demanded. Her inhabitants are steadfast in their abhorrence of the insurrection, and her Governor (Henry Lee) will have the command. General Morgan is in motion also. Maryland, notwithstanding the defects in her militia laws, will act very satisfactorily. New Jersey, probably headed by her Governor, will exhibit a most heroic example. Pennsylvania, which has been supposed to be reluctant, will furnish in volunteers what the incompetency of her militia laws would not yield. The speech of Governor Mifflin to the Assembly, and to the officers, the answers of the State Senate and House of Representatives, breathe a spirit determined to subdue the commotion. It has been even proposed (and the proposal seems likely to be successful) that the lawyers of this city should imbody themselves and march. You may therefore, sir, with safety pronounce, that, howsoever painful the appeal may be to arms; howsoever active the insurgents may have been in endeavoring to obtain proselytes; howsoever inconvenient the long distance to the principal scene may be—Government has not the most remote apprehension of difficulty in quelling the infatuation. Your negotiation cannot, I hope, be embarrassed by any appearance which this affair may have assumed: if it has been perplexed by it, you may truly affirm that, instead of shaking, it will terminate in the manifestation of the love of the people for the Government of the United States, and their zealous guardianship of it.

My pen is wearied by ineffectual remonstrances to Mr. Hammond on Governor Simcoe's perpetual encroachments, threats, and indeed hostilities. In support of my letter to him on the 2d instant, the enclosed affidavit of John Kelly presents a most savage fact. Be assured that I shall rejoice in your

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honor in happily closing this and every other branch of your functions. If, however, Lord Dorchester and Governor Simcoe are to continue uncontrolled in their course, what consequences may not be feared?

The copies of two other letters from myself to Mr. Hammond, of the 22d and 27th August, and of an extract from his reply on the 3d instant, will prove how we are harassed by their conduct respecting American seamen. So too will Governor Gelston's letter of the 8th instant, Governor Clinton's of the 9th, and the affidavits of Lloyd Daubeny and John R. Livingston, show what unjust and oppressive captures continue to be made of our property by British cruisers on our very coasts.

I have the honor to be, &c.

EDMUND RANDOLPH.

*Mr. Jay to Mr. Randolph—No. 15.*

LONDON, September 13, 1794.

SIR: Hitherto my letters have communicated to you but little information of much importance, except on one point. Although all the general objects of my mission were opened at once, and were received with every indication of the same candor and disposition to agreement with which they were stated, yet the nature of the business turned the immediate and more particular attention of both parties to the affair of the captures. The result has been communicated to you.

A number of informal conversations on the other points then took place, and every difficulty which attended them came into view, and was discussed with great fairness and temper. The inquiry naturally led to the fact which constituted the first violation of the Treaty of Peace. The carrying away of the negroes, contrary to the 7th article of the Treaty of Peace, was insisted upon as being the first aggression. To this it was answered, in substance, that Great Britain understood the stipulation contained in that article, in the obvious sense of the words which expressed it, viz: as an engagement not to cause any destruction, nor to carry away any negroes or other property of the American inhabitants, or, in other words, that the evacuation should be made without depredation; that no alteration in the actual state of property was operated or intended by that article; that every slave, like every horse, which escaped or strayed from within the American lines, and came into the possession of the British army, became, by the laws and rights of war, British property; and, therefore, ceasing to be American property, the importation thereof was not inhibited by the stipulation in question; that, to extend it to the negroes, who, under the faith of proclamations, had come into them, of whom they thereby acquired the property, and to whom, according to promise, liberty had been given, was to give to the article a greater latitude than the terms of it would warrant, and was also unnecessarily to give it a construction which (being odious) could not be supported by the known and established rules for construing Treaties. To this was replied the several remarks and considerations which are mentioned at large in a report which

I once made to Congress on this subject, and which, for that reason, it would be useless here to repeat: on this point we could not agree.

I then brought into view another circumstance, as affording a just cause of complaint, antecedent to any of those urged against us, viz: that, from the documents recited and stated in Mr. Jefferson's letter to Mr. Hammond, it appears that the posts were not only not evacuated within the reasonable time stipulated by Treaty, but also that no orders for the purpose had, at least within that time, if ever, been given.

To this it was answered, that the provisional articles were signed at Paris on the 30th November, 1782; that those articles were to constitute the Treaty of Peace proposed to be concluded between Great Britain and the United States, but which Treaty was not to be concluded till terms of peace should be agreed upon between Great Britain and France; that the Treaty of Peace was not concluded until the 3d September, 1783; that it was not ratified in America until the 14th January, 1784; and that the ratification was not received in London until the 28th May, 1784, nor exchanged until the end of that month; that, according to the Laws of Nations, Treaties do not oblige the parties to begin to execute the engagements contained in them until they have received their whole form—that is, until they shall have been ratified by the respective Sovereigns that are parties to them, and until after those ratifications shall have been exchanged; that, therefore, it was not until the end of May, 1784, that Great Britain was bound to give any orders to evacuate the posts; that such orders could not arrive at Quebec until in July, 1784, and consequently that the allegations of a breach of the Treaty by the non-execution of the article respecting the posts, grounded on circumstances prior to the 13th July, 1784, are evidently unfounded; that, in the interval between the arrival and publication in America of the provisional articles and the month of July, 1784, by which time, at soonest, orders issued after the exchange of the ratifications of the Treaty of Peace (the last of May) could reach Quebec, incontestible violations of the Treaty had taken place in the United States; that reason and the practice of nations warrant, during a suspension of hostilities, only such measures as result from a continuance of the *status quo*, until the final exchange of ratifications; that, in opposition to this, new Legislative acts had, in the interval before mentioned, been passed, which were evidently calculated to be beforehand with the Treaty, and to prevent its having its full and fair operation on certain points and objects when it should be ratified and take effect; that these acts were the first violations of the Treaty, and justified Great Britain in detaining the posts until the injuries caused by their operation should be compensated.

That Britain was not bound to evacuate the posts, nor to give any orders for the purpose, until after the exchange of the ratifications, does appear to me to be a position that cannot be reasonably disputed.

That certain Legislative acts did pass in the United States, in the interval aforesaid, which

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were inconsistent with the Treaty of Peace, is equally certain; but it does not thence necessarily follow that those acts were without justice even as relative to the Treaty; for precedent violations on the part of Great Britain would justify subsequent retaliation on the part of the United States. Here again the affair of the negroes emerged, and was insisted upon, and was answered as before. I confess, however, that his construction of that article has made an impression upon my mind, and induced me to suspect that my further opinion on that head may not be well founded.

Thus, it became evident that admissions of infractions of the Treaty of Peace, and that this or that party committed the first aggression, were not to be expected, and that such discussions would never produce a settlement.

It then became advisable to quit those topics, and to try to agree on such a set of reciprocal concessions as (balancing each other) might afford articles for a Treaty, so beneficial to both parties as to induce them to bury in it all former questions and disputes. This idea gave occasion to a variety of propositions of different kinds, which it would be tedious and useless to enumerate, and of which you will readily conceive there were some that could not meet with mutual approbation. Among those which were mentioned, was one for altering essentially our boundaries in the Northwest corner of the United States. This I regarded as inadmissible, and hoped would not be persisted in. One for doing us complete justice respecting the captures; one for partially opening to us a trade with the West India Islands; one for our paying the damages sustained by British creditors, by lawful impediments: this was strongly insisted on. I did not think it utterly inadmissible, in case we received proper justice and privileges under other articles; for then, in my judgment, it would not be advisable to part and separate on that point, and various reasons convinced me it would be adhered to. One for putting the ships and merchants of both parties on an equal footing. In short, in order to bring the whole subject comprehensively into view, nothing that occurred was omitted to be mentioned. These were free conversations, neither of us considering the other as being committed by anything that was said or proposed.

It was necessary then to select points for mutual consideration, and quitting desultory discussions, to fix our attention on certain propositions—each being at liberty to propose what he pleased, and again to retract his proposition, if, on mature reflection, he should be so inclined. With this view, after returning home, I selected the following, and having reduced them to writing, sent them to Lord Grenville for his consideration; in the meantime, employing myself in reflecting and endeavoring to decide in my own mind how far, and with what modifications or omissions, it would be proper to adopt them:

*"August 6, 1794.*

"Mr. Jay presents his compliments to Lord Grenville, and encloses some outlines for a Convention and Treaty of Commerce. Some of them

appear to him questionable. More mature reflection, and the light which usually springs from mutual discussions, may occasion alterations. Many of the common articles are omitted, and will be inserted of course. It is very desirable that it may be concluded in season to arrive about the 1st of November."

"Right Honorable Lord GRENVILLE," &c.

The paper that was enclosed is in these words, viz:

"Whereas between His Majesty the King of Great Britain and the United States of America there do exist mutual complaints, and consequent claims, originating as well in certain articles of their Treaty of Peace as in the Law of Nations relative to the respective rights of belligerent and neutral nations:

And whereas both the said parties being sincerely desirous to establish permanent peace and friendship by a Convention that may be satisfactory and reciprocally advantageous, have respectively empowered their undersigned Ministers to treat of and conclude the same:

And whereas the said Ministers find it impossible to admit the said mutual complaints and claims of the first description to be well founded, in their existing extent; and to the end that the obstacles to concord and agreement which thence arise may be done away, they have agreed that all the said complaints and claims shall be forever merged and sunk in the following articles, viz:

The boundaries of the United States, as delineated in the said Treaty of Peace, and every article in the said Treaty contained, are hereby recognised, ratified and forever confirmed; but, inasmuch as the parties differ as to which is the river intended by the Treaty, and therein called the river St. Croix, it is agreed that the said question shall be referred to the final decision of — Commissioners, to be appointed and empowered as follows, viz.

Whereas it is doubtful whether the river Mississippi extends so far to the Northward as to be intersected by the West line from the Lake of the Woods, which is mentioned in the said Treaty, it is agreed that the actual extent of the said river to the Northward shall be explored and ascertained by Commissioners for that purpose, to be appointed and authorized as follows, viz.

It is agreed that if, from the report of the said Commissioners, it shall appear that the said river does not extend so far to the Northward as to be intersected by the West line aforesaid, by reason whereof the boundary lines of the United States in that quarter would not close, then, and forthwith thereupon, such a closing line shall be established as shall be adjudged and determined to be most consistent with the true intent and meaning of the said Treaty by — Commissioners, to be appointed and authorized in the manner prescribed in the article relative to those who are to decide which is the river St. Croix, intended by the said Treaty, with these differences only, viz.

"It is agreed that His Majesty shall withdraw all his troops and garrisons from every post and place within the limits of the United States by the



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1st day of June next, and that all settlers and traders within the precincts or commands of the said posts and garrisons shall continue to have and enjoy, unmolested, all their property of every kind, and shall be protected therein; and may either remain and become citizens of the United States, or may sell their land or other property, and remove, with their effects, at any time within two years from the 1st day of June next.

It is agreed that His Majesty will cause full and complete satisfaction and compensation to be made for all vessels and property of American citizens which have been, or during the course of the present war shall be, illegally captured and condemned under color of authority and commissions derived from him; and that, in all cases where it shall be apparent full justice and compensation cannot be obtained and actually had, in the ordinary course of Judicial proceedings; and for this purpose — Commissioners shall be appointed and empowered in manner following, viz.

And whereas debts *bona fide* contracted before the peace, and remaining unpaid by American debtors to British creditors have probably in some instances been prejudiced and rendered more precarious by the lawful impediments which, after the peace, did for some time exist to their being prosecuted and recovered, it is agreed that, in all cases where it shall be apparent that the said creditors, by the operation of the said impediments on the security and value of their debts, have sustained damage, for which adequate reparation cannot now be obtained and actually had in the ordinary course of Judicial proceedings, (it being understood that in these damages interest shall be included only in cases where, according to equity and good conscience, all things being considered, it ought to be allowed and paid,) the United States will make full and complete satisfaction and compensation to the said creditors for the same; and for this purpose Commissioners shall be appointed and authorized in the manner prescribed in the preceding article, with these differences only, viz.

It is agreed that it shall and may be lawful for the said United States and their citizens to carry, in their own vessels, of the burden of 100 tons, or under, from the said United States, any goods, wares, and merchandises, which British vessels now carry from the United States, to any of His Majesty's islands and ports in the West Indies; and shall pay in the said islands and ports only such rates of tonnage as British vessels do, or shall be liable to, pay in the United States; and only such other charges, imposts, and duties, as British vessels and cargoes laden in, and arriving from, the United States, now are, or hereafter shall be, lawfully liable to in the said islands and ports; and that it shall and may be lawful for the said American vessels to purchase, lade, and carry away, from the said islands and ports, all such of the productions and manufactures of the said islands as they may think proper, and paying only such duties and charges on exportation as such vessels and cargoes, if British, would be liable to: *Provided always*, That they carry and land the same in the United States, and at no place whatever out of the same; it be-

ing expressly agreed and declared, that West India productions or manufactures shall not be transported in American vessels, either from His Majesty's said islands, or from the United States, to any part of the world except the United States, reasonable sea stores excepted, and excepting, also, rum made in the United States from West India molasses.

It is agreed that all the other ports and territories of His Majesty, whatsoever and wheresoever, (not comprehended within the limits of his chartered trading companies,) shall be free and open to the citizens of the United States, and that they, and their vessels and cargoes, shall therein enjoy all the commercial rights, and pay only the same duties and charges, either on importation or exportation, as if they were British merchants' vessels and cargoes, except that they shall pay the same rate of tonnage as may be charged on British vessels in the United States. And, on the other hand, it is agreed that all the ports and territories of the United States, without exception, shall be free and open to British merchants and subjects, and that they, and their vessels and cargoes, shall therein enjoy all the commercial rights, and pay only the same duties and charges, as if they were American merchants' vessels and cargoes; it being the intention of this article that, in His Majesty's territories (except as before excepted) American merchants and merchant vessels shall be exactly on the same footing with British merchants and merchant vessels, and that British merchants and merchant vessels shall, in all the territories of the United States, be exactly on the same footing with American merchants and merchant vessels, tonnage only excepted.

The trade between the United States and the British West Indies shall be considered as regulated and explained by the preceding article, and therefore as being excluded from the operation of the following articles:

It is agreed that all the productions and manufactures of His Majesty's dominions in any part of the world may freely be imported in British or American vessels into the United States, subject equally and alike to the duties on importation which may there be established; and that all the productions and manufactures of the United States may be freely imported in American or British vessels into any of the said dominions of His Majesty, subject equally to the duties on importation which may there be established.

And to the end that these duties may be made reciprocal, it is agreed that additional articles for that purpose shall be negotiated and added to this Convention as soon as may be conveniently done.

It is agreed that when Great Britain is at war and the United States neutral, no prizes taken from, or by Great Britain, shall be sold in the United States; and that, when the United States are at war and Great Britain neutral, no prizes taken from, or by the United States, shall be sold in His Majesty's dominions.

It is agreed that, if it should unfortunately happen that Great Britain and the United States

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should be at war, there shall be no privateers commissioned by them against each other, and that the merchants and others residing in each other's countries shall be allowed nine months to retire with their effects, and shall not be liable to capture on their way home to their respective countries.

It is agreed that British subjects who now hold lands in the United States, and American citizens who now hold land in His Majesty's dominions, shall continue to hold them according to the nature and tenure of their estates and titles therein, and may grant, and sell, and devise the same, as, and to whom they please, in like manner as if they were natives; and that neither they, nor their heirs or assigns, shall, so far as may respect the said lands, and the legal remedies incident thereto, be regarded as aliens.

It is agreed that neither debts due from individuals of the one nation to individuals of the other, nor shares or moneys which they may have in the funds, or in the public or private banks, shall ever, in any event of war or national differences, be sequestered or confiscated; except that, in case of war, and only during its continuance, payment may be suspended, it being both unjust and impolitic that debts and engagements contracted and made by individuals, having confidence in each other, and in their respective Governments, should ever be destroyed or impaired by national authority, on account of national differences and discontents."

From the 6th to the 30th of August nothing of importance occurred.

On the 30th day of August Lord Grenville wrote me a letter, and enclosed two draughts or projects of Treaties. The letter is in these words, viz:

AUGUST 30, 1794.

SIR: I have now the honor to transmit to you two projects, the one for regulating all points in dispute between His Majesty and the United States, the other for the establishment of commercial regulations. You will perceive that I have proceeded in forming these projects on the foundation of the paper you communicated to me, but that I have occasionally made such variations as seemed to me to be just and expedient. I have thought that some time might be saved by communicating them to you in this manner. Whenever you shall have sufficiently considered them to be enabled to converse, either on the whole, or on any distinct branches of so extensive a subject, I shall be very much at your order, having very sincerely at heart the speedy and favorable conclusion of our negotiation.

It would have been more satisfactory to me if I had found it practicable to send you these projects sooner; but you will, I am sure, be sensible of the circumstances which must, at this juncture, have interfered with the preparation of an arrangement intended to comprehend so extensive a subject, and to lay the foundation of lasting harmony and friendship between our two countries. Even in the state in which I now send you

these papers, I am apprehensive that some verbal corrections may occur as necessary to give full effect to the objects intended to be provided for, supposing those objects to be mutually consented to; and I think there are one or two points, on which we have occasionally touched in our conversations, for which no provision is made in these projects. But I have preferred making the communication in its present shape rather than that any further delay should be created, and I trust, with real confidence, to your candor, respecting such further suggestions as I may occasionally see ground to state to you.

I have the honor to be, &c.,

GRENVILLE.

The Hon. Mr. JAY, &c.

The draughts, or projects, are as follows, viz: First, the preamble.

ARTICLE 1. It is agreed that His Majesty will withdraw all his troops and garrisons from the posts within the boundary line assigned by the Treaty of Peace to the United States. This evacuation shall take place on or before the first of June, 1796, and all the proper measures shall, in the interval, be taken by concert between His Majesty's Governor General in America, and the Government of the United States, for settling the previous arrangements which may be necessary respecting the delivery of the said posts. All settlers and traders within the precincts or jurisdiction of the said posts shall continue to have and to enjoy, unmolested, all their property of every kind, and shall be protected therein so long as they shall think proper to remain there, and shall be at full liberty to remove at such times as they shall think proper, and to sell their lands, houses, or effects, or to retain the property thereof.

It shall at all times be free to His Majesty's subjects, and to the Indians who are to the southward and westward of the Lakes, to pass and repass with their goods and merchandises, and to carry on their commerce within and without the jurisdiction of the said posts, in the manner hitherto accustomed, and without any hindrance or molestation from the officers or citizens of the United States. The several waters, carrying places, and roads, adjacent to the Lakes, or communicating with them, shall continue to be free and open to His Majesty's subjects, and to the Indians, for that purpose; and no impediment or obstacle shall be given to the passage of goods or merchandise of any kind; nor shall any duty be attempted to be levied upon them.

ART. 2. In order to remove all uncertainty with respect to the said boundary line assigned to the United States, by the said Treaty of Peace, the following arrangements have been agreed upon, between the two contracting parties to the said Treaty, and are to be considered as forming a part thereof:

First. That, whereas doubts have arisen what river was truly intended, under the name of the river St. Croix, mentioned in the said Treaty, and forming a part of the boundary therein described, that question shall be referred to the final

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decision of Commissioners in London, to be appointed in the following manner, viz: That one Commissioner shall be named by His Majesty, and one by the United States, and that the said two Commissioners shall agree on the choice of a third, or, if they cannot so agree, that they shall each propose one person, and that, of the two names so proposed, one shall be drawn by lot, in the presence of the two original Commissioners; and that the two Commissioners so appointed shall be sworn impartially to examine and decide the said question, according to such documents as shall respectively be laid before them, on the part of the British Government, and of the United States.

*Secondly.* That whereas it is now understood that the river Mississippi would, at no point thereof, be intersected by such westward line as in the said Treaty; and, whereas it was stipulated, by the said Treaty, that the navigation of the Mississippi should be free to both parties, it is agreed that the boundary line shall run in the manner described by the said Treaty, from the Lake Huron, to the northward of the Isle Philippeaux, in Lake Superior; and that from thence the said line shall proceed to the bottom of West Bay, in the said Lake; and from thence, in a due west course, to the river of the Red Lake, or eastern branch of the Mississippi, and down the said branch to the main river of the Mississippi, and that, as well on the said branch, as on ( ——— or ——— through Lake Superior; and from thence to the water communication between the said Lake, and the Lake of the Woods, to the point where the said water communication shall be intersected by a line running due north from the mouth of the river St. Croix, which falls into the Mississippi below the falls of St. Anthony, and that the boundary line shall proceed from such point of intersection, in a due southerly course, along the said line to the Mississippi, and that, as well as on the said water communication, as on) every part of the Mississippi where the same bounds the territory of the United States, the navigation shall be free to both parties, and His Majesty's subjects shall always be admitted to enter freely into the bays, ports, and creeks, on the American side, and to land and dwell there for the purposes of their commerce; and, for greater certainty, the undersigned Ministers have annexed to each of the copies of this Treaty a copy of the map made use of by them, with the boundaries marked thereon, agreeably to this article; and the boundaries of the United States, as fixed by the said Treaty of Peace, and by this Treaty, together with all the other articles of the said Treaty, are hereby recognised, ratified, and forever confirmed.

ART. 3. Whereas it is alleged, by divers British merchants and others, His Majesty's subjects, that debts, to a considerable amount, which were *bona fide* contracted before the peace, still remain owing to them by citizens or inhabitants of the United States, and that, by the operation of various lawful impediments since the peace, not only the full recovery of the said debts

has been delayed, but also the security and value thereof has been impaired and lessened, and that, in many instances, the British creditors cannot now obtain, by the ordinary course of judicial proceedings, full and just relief for the loss and damage so sustained by them, it is agreed, that, in all cases where such relief cannot, for whatever reason, be now had by British creditors, in the ordinary course of justice, the United States of America will make full and complete satisfaction to the said creditors; and that, for this purpose, Commissioners shall be appointed and authorized to act in America, in the manner following, that is to say: two Commissioners shall be named by His Majesty, and two by the United States, and a fifth by the unanimous choice of the other four; but, if they shall not agree in such choice, then one name shall be proposed by the British Commissioners, and one by the Commissioners of the United States, and one of the two names so proposed shall be drawn by lot, in the presence of the said original Commissioners; and in case of death, sickness, or necessary absence, the places of the said Commissioners shall be respectively supplied in the same manner as such Commissioners respectively were first appointed. The said five Commissioners shall be sworn to hear all such complaints as shall, within the space of eighteen months from their first sitting, or within such further time as they shall see cause to allow for that purpose, be preferred to them, by British creditors, or their representatives, in virtue of this article, and impartially to determine the same, according to the true intent of this article, and of the Treaty of Peace.

And the said Commissioners, in awarding such sums as shall appear to them to be due to the said creditors by virtue of this article, are empowered to take into their consideration, and to determine, all claims, on account either of principal or interest, in respect of the said debts, and to decide respecting the same, according to the merits of the several cases, due regard being had to all the circumstances thereof, and as equity and justice shall appear to them to require; and the said Commissioners shall be empowered to examine all persons, on oath, touching the premises, and also to receive in evidence, at their discretion, and according as they shall think most consistent with equity and justice, all written depositions, or books, or papers, or copies, or extracts thereof, every such deposition, book, paper, copy, or extract, being duly authenticated, according to the legal forms now respectively existing in the two countries, or in such other manner as the said Commissioners shall see cause to prescribe and require. Three of the said Commissioners shall constitute a Board, and be empowered to do any act appertaining to the said commission; provided that, in every such case, one of the Commissioners named on each side, and the fifth Commissioner, chosen as above, shall be present; and all decisions shall be made by the majority of voices of the Commissioners then present.

The award of the said Commissioners, or any three of them, as aforesaid, shall, in all cases, be

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final and conclusive, both as to the justice of the claim, and to the amount of the sum to be paid to the claimant; and the United States undertake to cause the same to be paid to such claimants, without deduction, in sterling money, and in such place or places, and at such time or times, as shall be awarded by the said Commissioners; and on condition of such releases to be given by the claimant of his demands against individuals, as to them shall appear just and reasonable.

ART. 4. Whereas complaints have been made by divers merchants and others, citizens of the United States, that, during the course of the war in which His Majesty is now engaged, they have sustained considerable loss and damage by reason of irregular or illegal captures and condemnation of their vessels under color of authority or commission from His Majesty: and that, from various circumstances belonging to the said cases, adequate compensation for the said losses cannot now be obtained by the ordinary course of Judicial proceedings, it is agreed that in all such cases where adequate compensation cannot, for whatever reason, be now had by the said merchants and others, full and complete satisfaction will be made by the British Government to the said complainants; and that, for this purpose, Commissioners shall be appointed and authorized to act in London in the same manner, and with the same powers and authorities, and subject to the same restrictions, as the Commissioners named in the third article of this Treaty; and that the award of the said Commissioners shall, in like manner, be final and conclusive in all respects. And His Britannic Majesty engages to cause to be paid to such complainants, respectively, the amount of all sums so awarded, without deduction, in sterling money, and at such time or times, and in such place or places, as shall be awarded by the said Commissioners, and on condition of such releases, on the part of the complainants, of their demands against individuals, as to the said Commissioners shall appear just and reasonable.

And it is further agreed that, if it shall appear that in the course of the war, loss and damage has been sustained by His Majesty's subjects, by reason of the capture of their vessels and merchandise—such capture having been made, either within the limits of the jurisdiction of the said States, or by vessels armed in the ports of the said States, or by vessels commanded or owned by the citizens of the said States—the United States will make full satisfaction for such loss or damage, the same being to be ascertained by Commissioners in the manner already mentioned in this article.

ART. 5. It is agreed that, with respect to the neutral commerce which one party may carry on with the European enemies of the other when engaged in war, the principles to be observed by Great Britain towards the United States, and reciprocally by the United States towards Great Britain, shall always, and in all points, be the same as those which shall at that time be observed by the said parties, respectively, towards the most favored neutral nations of Europe, with the exception of such particular privileges as may, be-

fore the commencement of the war to which the same shall apply, have been granted by special Treaty to particular European nations, and with such extensions or modifications as may occasionally be established by special Treaty between Great Britain and the United States, for their mutual convenience.

ART. 6. It is agreed that, in all cases where vessels shall be captured or detained on just suspicion of having on board enemies' property, or of carrying to the enemy any of the articles which are contraband of war, the said vessels shall be brought to the nearest or most convenient port; and that all proper measures shall be taken to prevent delay in deciding the case of ships so brought in for adjudication, and in the payment or recovery of any indemnification adjudged or agreed to be paid to the masters or owners of such ships.

ART. 7. When one of the contracting parties is engaged in war and the other remains neutral, the said neutral Power shall not suffer the ships, vessels, goods, or merchandise, of the other, which may be taken at sea, or elsewhere, by the enemy, to be brought into any of its ports or dominions, and much less to be there sold or exchanged; but shall publicly forbid anything of that kind to be done. And if any ships, vessels, goods, or merchandise, of either of the contracting parties, or their people or subjects so taken at sea or elsewhere, shall be carried into the ports or countries of the other by the enemy, neither the same nor any part thereof shall be allowed to be sold or exchanged in that port, or in any other place in the dominion of the said neutral party. The master of the ship or vessel so taken, as also the mariners and passengers of every description shall, as soon as they arrive, be immediately set at liberty; and the said ship or vessel so brought, shall not be permitted to stay in that harbor, but shall be obliged immediately to leave the port, with her goods, merchandise, and lading, and without being allowed to return to the same, or to any other port in the dominions of the said neutral party: *Provided, nevertheless*, That nothing in this article shall be construed to derogate from the public Treaties which have already been entered into by either of the contracting parties with other nations; but in so far as such Treaties do not interfere, and in all cases to which they do not apply, the above article shall remain in full force, and shall be executed accordingly. And the contracting parties will not in future conclude any Treaty in derogation of this article.

ART. 8. It is agreed that the subjects and inhabitants of the kingdoms, provinces, and dominions of the contracting parties, shall exercise no acts of hostility or violence against each other, either by sea or by land, or in rivers, streams, ports, or havens, under any color or pretence whatsoever; and particularly, that the subjects or people of either party shall not receive any patent, commission, or instruction, for arming and acting at sea as privateers, or any letters of reprisal, as they are called, from any Prince or State, enemies to the other party; neither shall they arm ships in such manner as is above said, nor go out

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to sea therewith, for the purpose of exercising any act of violence against the subjects or people of the other contracting party; nor shall they in any manner molest or disturb the said subjects or people; to which end sufficient laws and regulations shall, if necessary, be provided; and as often as it is required by either party, strict and express prohibitions shall be renewed and published in all the territories, countries, and dominions of each party, wheresoever, that no one shall in anywise use such commissions or letters of reprisal, or engage in any such acts of hostility as aforesaid, under the pain of severe punishment to be inflicted on the transgressors, besides their being liable to make full restitution and satisfaction to those to whom they have done any damage. Neither shall any letters of reprisal be hereafter granted by either of the said contracting parties, to the prejudice or detriment of the subjects of the other; except only in such case wherein justice is denied or delayed; which denial or delay of justice shall not be regarded as verified, unless the petition of the person who desires the said letters of reprisal shall be communicated to the Minister residing there on the part of the Government against whose subjects or people they are granted, that, within the space of four months or sooner, if it be possible, they may manifest the contrary, or procure the satisfaction which may be justly due.

ART. 9. Neither of the said contracting parties shall permit the ships or goods belonging to the subjects of the other, to be taken within the limits of their respective jurisdictions on their coasts, nor in the ports or rivers of their dominions by ships of war or others, having commission from any Prince, Republic, or city whatsoever: but in case it should so happen, both parties shall employ their united force to obtain reparation of the damage thereby occasioned.

ART. 10. If it should unfortunately happen that a war should break out between Great Britain and the United States, all merchants and others residing in the two countries, respectively, shall be allowed nine months to retire with their effects, and shall be protected from capture in their way home: *Provided, always*, that this favor is not to extend to those who shall act contrary to the established laws. And it is further agreed that neither debts due from individuals of the one nation to individuals of the other, nor shares or moneys which they may have in the public funds or in the public or private banks, shall ever in any event of war or national differences be sequestered or confiscated; it being both unjust and impolitic that debts and engagements contracted and made by individuals having confidence in each other, and in their respective Governments, should ever be destroyed or impaired by national authority, on account of national differences and discontents.

ART. 11. It is agreed that British subjects who now hold lands in the territories of the United States, and American citizens who now hold lands in His Majesty's dominions, shall continue to hold them, according to the nature and tenure of their estates and titles therein; and may grant

and sell, and devise the same, as and to whom they please, in like manner as if they were natives; and that neither they nor their heirs or assigns shall, so far as may respect the said lands, and the legal remedies incident thereto, be regarded as aliens.

**COMMERCIAL PROJET.****The Preamble.**

ARTICLE 1. It is agreed that there shall be, between the dominions of His Britannic Majesty in Europe and the territories of the United States, a reciprocal and perfect liberty of commerce and navigation, and a free admission of all ships belonging to either party, whether the same be ships of war or merchant vessels; and that the subjects and inhabitants of the two countries, respectively, shall have liberty, freely and securely, and without hindrance or molestation of any kind, to come with their said ships and their cargoes to the lands, countries, cities, ports, places, and rivers, within the dominions and territories aforesaid, to enter into the same, to resort thereto, and to remain and reside therein, without any limitation of time; also to hire, purchase, and possess houses and warehouses, for the purpose of their commerce; and, generally, that the merchants and traders on each side shall enjoy the most complete protection and security for their commerce, but subject always, as to what respects this article, to the general laws and statutes of the two countries, respectively.

ART. 2. It shall be free for the two contracting parties, respectively, to appoint Consuls for the protection of trade, to reside in the dominions and territories aforesaid, the same being of the nation on whose behalf they shall be so appointed, and not otherwise; and such Consuls shall enjoy those liberties and rights which belong to them by reason of their functions; but either party may except, from the general liberty of residence of such Consuls, such particular places as such party shall judge proper to be so excepted.

ART. 3. The vessels of the two contracting parties, respectively, coming to the dominions or territories aforesaid, shall enjoy the same liberty in respect to the entry and discharge of their lawful cargoes, and all other regulations which respect the general convenience and advantage of commerce, as now are, or shall at any time be, enjoyed by any other foreign nation, which shall be the most favored in that respect; and no distinction shall exist of tonnage or other duties, (such light-house duties excepted as are levied for the profit of individuals or of corporations,) by which the vessels of the one party shall pay in the ports of the other any higher or other duties than shall be paid, in similar circumstances, by the vessels of the foreign nation the most favored in that respect, or by the vessels of the party into whose ports they shall come.

ART. 4. No article, being the growth, produce, or manufacture of any of the dominions or territories of the one party shall pay, on being imported directly from the said territories or dominions, into the ports of the other, any higher or



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other duties than shall be there paid for the like articles, on importation from any other foreign country.

ART. 5. No new prohibition shall be laid in any of the territories or dominions aforesaid, by one of the contracting parties, on the importation of any article, being of the growth, produce, or manufacture of the territories or dominions of the other; nor shall articles, being of the growth, produce, or manufacture of any other country, be prohibited to be imported into the dominions of one of the contracting parties by the vessels of the other, except such articles only as are now so prohibited.

ART. 6. With respect to the territories and dominions of His Britannic Majesty in the West Indies, the following arrangements have been agreed to by the contracting parties:

His Majesty consents that it shall and may be lawful, during the time hereinafter limited, for the citizens of the United States of America to carry to any of His Majesty's islands and ports in the West Indies, from the United States in their own vessels, not being above the burden of seventy tons, any goods or merchandise, being of the growth or produce of the said States, which it is or may be lawful to carry to the said islands and ports from the said States in British vessels; and that the said American vessels and their cargoes shall pay there no other or higher duties than shall be payable by British vessels in similar circumstances; and that it shall be lawful to the said American citizens to purchase, load, and carry away, in their said vessels to the United States, from the said islands and ports, all such articles, being of the growth and produce of the said islands, as may by law be carried from them to the said States in British vessels; and subject only to the same duties and charges on exportation, to which British vessels are or shall be subject in similar circumstances: *Provided, always,* That they carry and land the same in the United States only; it being expressly agreed and declared that, during the continuance of this article, the United States will prohibit the carrying any West India productions or manufactures in American vessels, either from His Majesty's islands or from the United States, to any part of the world except the United States—reasonable sea stores excepted, and excepting also rum made in the United States from West India molasses.

It is agreed that this article, and every matter and thing therein contained, shall continue to be in force during the continuance of the war in which His Majesty is now engaged, and also for two years from and after the day of the signature of the preliminary articles of peace by which the same may be terminated.

And it is further agreed that, at the expiration of the said term, the two contracting parties will treat further concerning the arrangement of their commerce in this respect, according to the situation in which His Majesty may then find himself as with respect to the West Indies, and with a view to the mutual advantage and extension of commerce.

ART. 7. This Treaty, and all the matters there-

in contained except the sixth article, shall continue to be in force for twelve years from the day of the exchange of the ratification thereof; and if, during the continuance of this Treaty, there shall arise on either side any complaint of the infraction of any article thereof, it is agreed that neither the whole Treaty nor any article thereof shall, on that account, be suspended, until representation shall have been made to the Government by the Minister of the party complaining; and, even if redress shall not then be obtained, four months' notice shall be given previous to such suspension."

To the before-mentioned letter I returned the following answer, viz:

PALL MALL, ROYAL HOTEL,

September 1, 1794.

MY LORD: I was yesterday honored with your lordship's letter of the 30th August, with the projects and map which accompanied it. I consider the articles in these projects as being (like those in our conversations) merely for mutual consideration.

In these projects several parting points present themselves; some of them, I presume, may be easily accommodated, but there are others which create in my mind serious apprehensions. One of these articles (being without the limits of my authority) I think I ought now to particularize; it is the one which proposes a cession of territory in the Northwestern corner of the United States. It is proper, also, that I should say with frankness that, in my opinion, many circumstances and considerations which shall be submitted to your lordship, will restrain the United States from such a cession.

This article would entirely frustrate my hopes, if I had not reason to persuade myself that the enlarged and enlightened policy of excluding secondary from a competition with primary objects, will always harmonize with your lordship's mind. The present occasion is great, and though critical, yet auspicious to the establishment of confidence and friendship between the two countries. With the magnitude and importance of these objects, the projects in question really do not strike me as being commensurate. I am aware that, in forming them, your lordship had many difficulties growing out of the subject, and probably some others to encounter, and that your attention was constantly divided between a multitude of great and pressing affairs.

The negotiation now becomes delicate, and I should experience more than a proportionate embarrassment were it not for my confidence in your lordship's candor and liberality, and for those sentiments of esteem, as well as respect, which I have the honor to be, &c.

J. J.

The Rt. Hon. LORD GRENVILLE, &c.

The proposed alterations in our Northwestern boundary, and the consequential cession and dereliction of territory, appeared to me to be a point which I ought, without delay, to state to his lordship in the light in which it appeared to me; I

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therefore prepared and sent him, enclosed in a note, the following remarks, viz :

ROYAL HOTEL, PAUL MALL,  
September 4, 1794.

Mr. Jay presents his compliments to Lord Grenville, and requests the favor of his lordship to name a time for receiving Mr. Jay on the subject of the proposed Treaties. In the mean time, Mr. Jay has the honor of submitting the remarks herewith enclosed, to his lordship's consideration.

Remarks on that part of the second article of the project of a Treaty for terminating all differences between Great Britain and the United States of America, which purports a cession or dereliction by the latter of the country lying to the Westward and Northward of either of the two lines therein proposed and described.

For this cession or dereliction, two reasons are assigned, viz :

1st. That it is now understood that the river Mississippi would in no part thereof be intersected by a west line from the Lake of the Woods.

2d. That it was stipulated by the Treaty of Peace, that the navigation of the river Mississippi should be free to both parties.

Admitting the fact mentioned in the first of these reasons to be well founded, it shows only that the Northern and Western lines of the United States do not meet and close, and therefore that it is necessary to fix on a line for closing them. But no argument thence results that either Great Britain or the United States ought to cede or to acquire any territory further than what such closing line may possibly render unavoidable.

That the Mississippi would, in no point thereof, be intersected by a west line from the Lake of the Woods, is a fact involved in too much uncertainty to be assumed as a foundation for national stipulation ; for however it may be conjectured or supposed, yet it still remains to be ascertained.

The map sent to Mr. Jay by Lord Grenville, viz : Faden's, published in 1793, informs us that the river Mississippi has been ascended only as far up as about the forty-fifth degree of North latitude—that is, about a degree above the falls of St. Anthony ; so that its further extent and course towards the North are yet to be discovered.

On the same map, Faden lays down a stream connected with the Marshy Lake, near the forty-fifth degree of latitude, and thus denominates it, "Mississippi by conjecture."

He also lays down on the same map a stream connected with the White Bear Lake, near the latitude forty-six, and thus denominates it, "The Mississippi by conjecture."

He also lays down, on the same map, a stream connected with the Red Lake, in latitude forty-seven, and thus denominates it, "Red Lake river, or Lahontan's Mississippi."

Inasmuch, therefore, as three different streams, found in the immense wilderness above latitude forty-five, are conjectured to be the Mississippi, it is plain that, so far from being certain how far that river runs to the North, we really are yet to learn

where it does run, and which of the rivers in that wilderness it is. How then can it be assumed, as a fact resting on good evidence, that the Mississippi would at no point thereof be intersected by a west line from the Lake of the Woods?

Individuals differing about boundaries depending on the course and extent of brooks and streams, settle questions of that kind by actual surveys. States usually, and with good reason, do the same. Why be content with delusive conjectures and probabilities, when absolute certainty can easily be had? Let a survey be accurately made by joint Commissioners, and at joint expense. The United States are ready to adopt that measure, and to enter into the necessary stipulations and arrangements.

If it should appear, on such a survey, that the west line would intersect the Mississippi, no room for further question or dispute will remain ; but if the contrary should prove to be the case, then, as the Northern and Western lines of the United States would not close, the manner of closing them will naturally and necessarily come under consideration. Several modes of closing them may be devised, neither of which may be altogether agreeable to both parties. Unless they shall be able to agree, let joint Commissioners, at joint expense, and upon oath, fix a closing line in the manner which they shall judge most consonant with the true intent and meaning of the Treaty of Peace. The United States are ready to enter into such eventual stipulations as may be necessary for that purpose.

The second reason assigned for this cession, is, "that it was stipulated by the Treaty of Peace that the navigation of the Mississippi should be free to both parties."

From this stipulation it is argued, as a natural and necessary inference, that it was in the expectation and intention of the parties, that they should and would both border, not only on the river, but also on the navigable part of it.

This inference seems to be violent. A right freely to navigate a bay, a strait, a sound, or a river, is perfect without, and does not necessarily presuppose the dominion and property of lands adjacent to it.

But, although, from a right to navigate the river Mississippi, a right to adjacent lands cannot be inferred, yet, when that right is connected with the circumstance that both parties were to be bounded by a line terminating at the river, it is thought to be thence presumable that the parties expected and intended the said line would and should terminate at a navigable part of it. They might or they might not have intended it. Whether they did or not, can only be discovered from their concomitant words and actions. On looking into the Treaty for words indicating such intention, our search proves fruitless ; there are no such words in it, nor the least shadow of a stipulation or declaration on the point. If we review the plain and manifest design of the Treaty relative to boundaries, we find the idea of such intention uniformly contradicted. The Treaty, in delineating the boundaries of the United States,

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passes from the northwest angle of Nova Scotia to the head of Connecticut river, then down that river to the forty-fifth degree of latitude, then on that line of latitude to the river Iroquois, then (quitting that line of latitude) to Lake Ontario, then, from Lake to Lake, through their connecting waters, until it arrives at the Lake of the Woods, and passing through it, to the northwesternmost point thereof, proceeds on a due west course to the Mississippi, &c.

Now, it was always well known, and the maps show it, that the Lake of the Woods is situated at a great distance in the North, above the latitude of the falls of St. Anthony, which interrupt the navigation of the Mississippi, and consequently that a due west line from the Lake of the Woods must of necessity strike the river above those falls, and as far above them as the latitude of the Lake is above the latitude of the falls.

Again: it was not then known, nor is it yet known, how far the Mississippi runs navigable beyond those falls; nor whether any, or how many, other falls intervene between them and its source. The parties, therefore, being entirely ignorant of the extent, and of the course, and of the character of the river high above the falls, could not possibly have judged, or divined, or guessed, whether the place or part of the river at which the west line would strike it, was navigable or not; how, then, could they expect or intend any thing about it? Nothing could be more obvious than that a due west line might terminate on the river at a place not navigable; and had navigation been in view, it seems strange that the Treaty should not contain a provision, that, if the said west line, on being actually run, should strike the river at a place where it was not navigable, then the said line should be inclined so many degrees southerly as might be necessary to bring it to the first navigable water of the river. Yet nothing like this is to be found in the Treaty.

It is not difficult to discern from the Treaty, and so was the fact, that other ideas and views governed the direction of the boundary lines.

The question, then, was, where would it be most convenient to both parties, and, all things considered, where would be most wise and prudent, that the boundaries between them should be fixed? Two lines were proposed and considered: one from the point before mentioned, on Connecticut river, and running straight on the line of the 45th degree of latitude West to the Mississippi; the other was the one adopted and established by the Treaty. The official papers of the British Ministers which respect that negotiation, will probably show that Great Britain had the choice of these two lines, and that she preferred the latter.

This choice and preference gives no support to the idea that she then contemplated navigable water in that part of the Mississippi which was supposed to penetrate into Canada. The first line, if adopted, would have favored it, and fair presumption might have classed that among the reasons of preference; but notwithstanding this, Great Britain did not prefer it; on the contrary,

as the waters would form a line which could never be mistaken, and afforded great conveniences to both parties, the line of the waters was preferred by both. This water line was, by mutual consent, terminated at the northwesternmost point of the Lake of the Woods; it was agreed that the Mississippi should bound the United States on the West; nothing then remained but to agree on the course which the closing line, from that Lake to the river, should run; and a due west course was agreed upon without any expectation or design that it would or should there meet the navigable water. The truth is, that the stipulation respecting the navigation of the river being free to both parties, was an afterthought, and gave occasion to a new and subsequent article, viz: the 8th. Even in the drawing that article, when the navigation of the river became an object of contemplation, no connexion was introduced between the right mentioned in that article, and the boundaries designated in the second article; no facilities were asked, or proposed, or stipulated, for a water, or any other communication between Canada and the navigable water of the Mississippi, which doubtless would have been the case, had such a communication been then in view, especially considering the absolute uncertainty and extreme improbability of that river being navigable above the high latitude of the Lake of the Woods.

From the before mentioned circumstances and considerations, it seems fairly to result, that the two reasons assigned for the cession in question, as a matter of equity and right, do not afford it a solid foundation.

If this conclusion be just, it precludes the necessity of showing at large, that none of the inferences ascribed to the said two reasons, involve a claim to tracts of country so extensive as either of the two proposed and marked on the map; each of which includes more than thirty thousand square miles; and that, without taking into the computation the extensive country lying between (what in the subjoined diagrams are for the purpose of computation regarded as) the west sides of these tracts and the Mississippi, and to the southward of the West line from the Lake of the Woods; and which country would on either of these plans become also annexed to Canada."

In order that you may have an accurate idea of the lines proposed by Lord Grenville, I here insert copies of the diagrams mentioned in the foregoing remarks. [Nos. 1 and 2.]

On the 5th September, Lord Grenville wrote me the following note, viz:

"DOWNING STREET, September 5, 1794.

"Lord Grenville presents his compliments to Mr. Jay. He has received Mr. Jay's note, with the enclosed remarks, and will be glad to see him at his office to-morrow, at twelve o'clock. Lord Grenville has, in the mean time, the honor to enclose to Mr. Jay some observations which have occurred to him on the perusal of the paper which he received from Mr. Jay."

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The observations enclosed with this note were as follows, viz :

*Observations respecting the Northwestern boundary of the United States of America.*

It cannot for a moment be admitted, that the proposed arrangement on the subject of the Northwestern boundary, is properly to be considered in the manner in which it is spoken of by Mr. Jay, namely, as a cession, or dereliction of territory on the part of the United States.

Their boundary to the Northwest, as fixed by the Treaty, is a line "to be drawn from the Lake of the Woods, in a due west course, to the Mississippi." There are in this agreement two distinct parts :

1st. That the boundary line should be drawn in a due westerly course from the Lake of the Woods; and 2d. That it should likewise be drawn in a due westerly course to the Mississippi :

If such a line cannot in fact be drawn between those points, there can be no ground for considering one part of this stipulation as more permanently fixed than the other, or as affording a more equitable ground for any future arrangement; and it would be quite as reasonable for this country to consider as a cession of territory on our part, the adoption of any other boundary than that of a due westerly line striking the Mississippi, as for the United States to urge that such a cession exists on their part, if such a line is not drawn from the Lake of the Woods.

To this consideration must be added that which so plainly results from the article respecting the free navigation of the Mississippi; on which head it seems sufficient for the present to remark, that such a right evidently and necessarily implies the possibility of access to that river, without passing through a foreign territory.

Little objection occurs to the making an actual survey, except that of delay. If, on that survey, the stipulations in the Treaty should be found to be compatible with the real geography of the country, it is certain that no further dispute could exist on that point.

But if we have, from the best information on the subject, sufficient reason to believe that no such line can be drawn as is mentioned in the Treaty, it cannot be desirable, when all the interests of the two countries with relation to each other are under discussion, with a view to lasting friendship, to leave unsettled so material a ground of difference as that of an unascertained boundary. The mode of settling that point is necessarily connected with the general result of the present negotiation. If no more can be accomplished on any other point than the doing strict justice between the parties, according to existing Treaties and the Laws of Nations, the appointment of Commissioners, as proposed by Mr. Jay, does not appear ill adapted to obtain the same object as to this point; provided that those Commissioners are distinctly enabled to take into their consideration the 8th article, and to give to that stipulation such effect as they shall think it ought in justice to have in the formation of a new boundary line.

But, if the negotiation should lead to new stipulations of mutual advantage, no subject appears more proper for the application of that principle, than one in which there exist two doubtful and contradictory claims, founded on an agreement which cannot by any possibility be executed; especially if it be true, as it is considered here, that this is a point where any advantage, whatever it should be, which Great Britain might acquire, would, under all circumstances, be found at least equally beneficial to the United States.

DOWNING STREET, September 5, 1794.

Expecting that when we met the first of the above projects would, as first in the order of things, be first considered, my attention was more immediately confined to it; but the time consumed in preparing the remarks before mentioned, left me very little leisure to employ in forming satisfactory opinions on the different parts of this project; several, however, occurred to me, of which I made short notes; they are as follows. You will find the numbers marked in the margin of the project.

Note 1. In what capacity are they so to remain? as British subjects or American citizens? If the first, a time to make their election should be assigned.

2. If His Majesty's subjects are to pass into the American territories for the purposes of Indian trade, ought not American citizens to be permitted to pass into His Majesty's territories for the like purpose?

3. If the American Indians are to have the privilege of trading with Canada, ought not the Canada Indians to be privileged to trade with the United States?

4. If goods for Indian trade shall be introduced duty free by British traders, how is the introduction of other goods with them to be prevented? And for this privilege, operating a loss to the American revenue, what reciprocal benefit is to be allowed?

5. Why should the Commissioners for ascertaining the river St. Croix meet and decide in London? Is it not probable that actual views and surveys, and the testimony and examination of witnesses on the spot will be necessary?

6. Why confine the mutual navigation of the Mississippi to where the same bounds the territory of the United States?

7. Why should perpetual commercial privileges be granted to Great Britain on the Mississippi, &c., when she declines granting perpetual commercial privileges to the United States any where?

8. This preamble, connected with the silence of the Treaty as to the negroes carried away, implies that the United States have been aggressors; it also unnecessarily impeaches their judicial proceedings.

9. On no principle ought more to be asked than that the United States indemnify creditors for losses and damages caused by the impediments mentioned.

10. The word *had* is not sufficiently definite;

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the object being not only sentence, decree, or judgment, but payment and satisfaction.

11. Sterling money fluctuates according to exchange; this should be *fixed*.

12. Why not place these captures on the footing with the others, and charge the United States only in cases where justice and complete compensation cannot be had from judicial proceedings?

13. Why provide only for neutral commerce with European enemies? The whole of this article is so indefinite as to be useless.

14. What are or shall be deemed contraband in the sense of this article?

15. As the United States have permitted the French to sell prizes in the United States, should the restriction not to do it in future, commence at the expiration of the present war?

16. There should be an article against the impressment of each other's people.

17. This united force should be confined to the moment of aggression.

18. The confiscation of debts, &c. This article should be in the Treaty of Commerce.

On the 6th of September, agreeably to Lord Grenville's appointment, I waited upon him; we spent several hours in discussing the several topics which arose from these notes, and some others, which in the course of the conversation occurred. He promised to take what I had offered into consideration, and manifested throughout the conversation every disposition to accommodate that could be wished: we may not finally be able to agree. If we should not, it would, in my opinion, occasion mutual regret, for I do believe that the greater part of the Cabinet, and particularly Lord Grenville, are really disposed and desirous not only to settle all differences amicably, but also to establish permanent peace, good humor, and friendship, between the two countries.

On the 8th of September, I received from Lord Grenville the following letter, enclosing the papers mentioned in it, viz:

ST. JAMES'S SQUARE, Sept. 7, 1794.

SIR: In order to narrow as much as possible the objects of our discussions, I have stated in the enclosed paper what occurs to me on the different points to which your notes apply, except the second, third, and fourth articles of those notes, which I have reserved for further examination and inquiry. I expect that, by Tuesday or Wednesday at furthest, I shall be able to converse further with you on those points, as well as with respect to what you suggested on the subject of the East Indies. The points in discussion will then be reduced within a small compass, but they certainly do not relate to the least important parts of our negotiation. With respect to them, I can only say, that you shall continue to find in me the same openness of discussion, and the same desire to state to you, without reserve, what I think may be conceded to the object of speedy conciliation, and what the interest and honor of my country, and the duty which I owe to the King, oblige me to insist upon, as necessary for that object. It is with

sentiments of very real esteem and respect, that I have the honor to be, &c., &c.,

GRENVILLE.

P. S. I also send a note of two alterations to be made in the commercial projet, in consequence of our conversation of yesterday. G.

To the Hon. Mr. JAY, &c.

*Observations, (enclosed with the above letter.)*

No. 1. In consequence of the observation contained in the first remark, Lord Grenville proposes to add, in the first article of the projet, after the words "property thereof," at the end of the first paragraph, these words: "and such of them as shall continue to reside there for the purposes of commerce, shall not be compelled to become subjects of the United States, or take any oath of allegiance to the Government thereof, but shall be at full liberty so to do (if they think proper) within one year after the evacuation of the posts, which period is hereby assigned to them for making their choice in this respect." Considering the length of the first article, now increased by this addition, it may be better to divide it into two—the second beginning with the words, "It shall at all times be free," &c. &c.

Articles 2, 3, and 4, reserved for further examination.

5. The meeting of the Commissioners respecting the river St. Croix is proposed to be in London, because it is supposed that the great mass of evidence on the subject is here. A power may be given to them, either to direct a local survey, or to adjourn to America, but it seems very unlikely that this would become necessary.

6. No idea was entertained of confining the mutual navigation of the Mississippi to that part of the river where it bounds the territory of the United States. That qualification was intended only to have reference to the free admission of British merchant ships into the bays, ports, and creeks of the United States, on the Mississippi; nor would it have been proposed at all to repeat in this article what is so distinctly stipulated in the Treaty of Peace, respecting the free navigation of the Mississippi, except for the purpose of expressly extending that stipulation to every part of the waters now proposed to form a part of the boundary.

7. The right of admission into ports, &c., for the purposes of trade, and the general liberty of commerce, spoken of in this article, are not considered as commercial privileges, such as are usually made the subject of temporary regulation by special Treaties of Commerce. Great Britain by no means declines to give the same rights permanently to America, as with respect to those parts of her dominions which are open to foreign commerce. These rights are, indeed, now generally acknowledged to be incident to a state of amity and good correspondence; and if it is proposed to particularize them, as with respect to the Mississippi, this is done only with a view of removing the possibility of such doubts as were formerly raised here upon the subject.

8. On the fullest reconsideration of this pream-



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ble, Lord Grenville sees no ground to think it liable to the objections made by Mr. Jay, particularly when compared with the preamble proposed for the fourth article. The proceedings in both articles are grounded on the allegations of individuals. The truth of those allegations is referred to the decision of the Commissioners. Lord Grenville's opinion respecting the prior aggression of the United States, as well as his reasons for that opinion, are well known to Mr. Jay; but he has no wish to introduce into the proposed Treaties any discussion of that point. He is therefore very ready to consider any form of words which Mr. Jay may suggest for those articles, as better suited to the two objects to which they are directed—those of justice to individuals and conciliation between the Governments; and this applies equally to the remarks Nos. 9 and 10.

11. The substitution of the word *specie*, as suggested by Mr. Jay, seems fully to meet the object here mentioned.

12. What Mr. J. here desires was intended to be done, and was indeed conceived to be implied in the general words at the end of the article. But Lord Grenville sees no objection to the insertion of express words for the purpose.

13. Lord Grenville explained to Mr. Jay this morning the reason of the insertion of the word *European*, in the place here referred to. The subject is connected with the larger consideration to which their conversation led, and from the further discussion of which Lord Grenville is inclined to hope that mutual advantage may arise. Mr. Jay will observe, that the subject to which his remark, No. 15, applies, is one instance among many which might be brought to show that this article would not be inefficient.

14. To meet the object which was this morning suggested in conversation on this article, Lord Grenville would propose the adoption of the following additional article, to come in immediately after the eighth. Lord Grenville has, in conformity to what was mentioned by Mr. Jay, used the words of *Vattel*:

"In order to regulate what is in future to be esteemed contraband, it is agreed that, under the said denomination shall be comprised all arms and implements serving for the purposes of war, by land or sea, such as cannon, muskets, mortars, petards, bombs, grenades, carcasses, saucisses, carriages for cannon, musket rests, bandeliers, gunpowder, match, saltpetre, ball, pikes, swords, headpieces, cuirasses, halberds, lances, javelins, horses, horse furniture, holsters, belts, and generally all other implements of war; as also timber for shipbuilding, tar, or rosin; sheet copper, sails, hemp, and cordage, and generally whatever may serve directly to the equipment of vessels; unwrought iron and fir planks only excepted. And all the above articles are hereby declared to be just objects of confiscation, whenever they are attempted to be carried to an enemy.

"And whereas corn, grain, or provisions, can be considered as contraband in certain cases only, namely, when there is an expectation of reducing the enemy by the want thereof, it is agreed that,

in all such cases, the said articles shall not be confiscated; but that the captors, or, in their default, the Government under whose authority they act in this respect, shall pay to the masters or owners of such vessels the full value of all such articles, together with a reasonable mercantile profit thereon, and also the freight and demurrage incident to their detention."

15. It seems by no means unreasonable that the effect of this stipulation should be extended to the existing war, as a natural consequence of the good understanding to be established in this negotiation, and by the removal of all existing differences. And it would tend to prevent so many occasions of acrimony and dispute, on both sides, that Lord Grenville thinks it highly desirable to maintain this article in its present form.

16. Lord Grenville sees no reason whatever to object to this article.

17. This remark seems also perfectly just, and will be best met by omitting the concluding part of this article.

18. Lord Grenville rather thinks this article ought to be permanent, for the mutual interest of both countries; but he is content to leave this point to the decision of Mr. Jay, who is much too enlightened not to see the effect which a contrary conduct to that here prescribed must produce as with respect to America.

*Commercial Project—Observations.*

ART. 2. Omit these words: "the same being of the nation on whose behalf they shall be appointed, and not otherwise," and insert, in lieu thereof, "the same being first approved by the Government of the country in which they shall be so appointed to reside, and not otherwise."

ART. 3. The last sentence to run thus: "by which the vessels of the one party shall pay, in the ports of the other, any higher or other duties than shall be paid in similar circumstances by the vessels of the foreign nation the most favored in that respect, or any higher or other duties than shall be paid in similar cases by the vessels of the party itself into whose ports they shall come."

Thus, sir, I have given you a very particular and correct account of the negotiation. Many observations and explanatory remarks might be added. I might also inform you that I had strenuously urged the justice of compensation for the detention of the posts, and that I consider the privilege of trading to the West Indies as providing for claims of that kind. On this privilege, and the probability of its being revived after the expiration of the term assigned for its duration, I could enlarge, but it does not strike me as necessary to go into further details, nor indeed could I at present find time for the purpose.

It will not escape you that the articles now under consideration will doubtless undergo many alterations before they assume that final form in which they will either be accepted or rejected; and, therefore, that it would not be proper to publish them at present. I think that in the course of a few weeks the questions now under discus-

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sion will be decided. No time shall be lost in communicating to you the result.

Another subject remains to be mentioned. It appeared to me advisable that our people should have precise and plain instructions relative to the prosecution of appeals and claims in cases of capture. For that purpose I applied to Sir William Scott, and requested him, in concert with Dr. Nicholl, to prepare them. We conversed on the subject, and I explained to him my views and objects.

On the 10th of September I received them, enclosed with the following letter from Sir William, which I insert on account of the friendly disposition towards our country which it manifests, and which appears to me to be less uncommon here than we generally suppose, viz :

*To His Excellency John Jay, Esq. :*

SIR: I have the honor of sending the paper drawn up by Dr. Nicholl and myself; it is longer and more particular than perhaps you meant, but it appeared to be an error on the better side rather to be minute than to be too reserved in the information we had to give; and it will be in your excellency's power either to apply the whole or such parts as may appear more immediately pertinent to the objects of your inquiry.

I take the liberty of adding, that I shall at all times think myself much honored by any communications from you, either during your stay here or after your return, on any subject in which you may suppose that my situation can give me the power of being at all useful to the joint interests of both countries; if they should ever turn upon points in which the duties of my official station appear to me to impose upon me an obligation of reserve, I shall have no hesitation in saying that I feel them to be such. On any other points in which you may wish to have an opinion of mine, you may depend on receiving one that is formed with as much care as I can use, and delivered with all possible frankness and sincerity.

I have the honor to be, with great respect, &c.,  
WILLIAM SCOTT.

COMMONS, September 10, 1794.

*Paper enclosed in the foregoing letter.*

SIR: We have the honor of transmitting, agreeably to your excellency's request, a statement of the general principles of proceedings in Prize Causes in the British Courts of Admiralty, and of the measures proper to be taken when a ship and cargo are brought in as prize within their jurisdictions.

The general principles of proceeding cannot, in our judgment, be stated more correctly or succinctly than we find them laid down in the following extract from a report made to his late Majesty, in the year 1753, by Sir George Lee, then Judge of the Prerogative Court, Dr. Paul, His Majesty's Advocate General, Sir Dudley Ryder, His Majesty's Attorney General, and Mr. Murray, (afterwards Lord Mansfield,) His Majesty's Solicitor General:

"When two Powers are at war, they have a

right to make prizes of the ships, goods, and effects of each other upon the high seas. Whatever is the property of the enemy may be acquired by capture at sea; but the property of a friend cannot be taken, provided he observes his neutrality.

"Hence the Law of Nations has established that the goods of an enemy, on board the ship of a friend, may be taken.

"That the lawful goods of a friend, on board the ship of an enemy, ought to be restored.

"That contraband goods going to the enemy, though the property of a friend, may be taken as a prize; because supplying the enemy with what enables him better to carry on the war is a departure from neutrality.

"By the Maritime Law of Nations, universally immemorially received, there is an established method of determination whether the capture be or be not lawful prize.

"Before the ship or goods can be disposed of by the captor, there must be a regular judicial proceeding, wherein both parties may be heard, and condemnation thereupon as prize, in a Court of Admiralty, judging by the Law of Nations and Treaties.

"The proper and regular Court for these condemnations is the Court of that State to whom the captor belongs.

"The evidence to acquit or condemn, with or without costs and damages, must, in the first instance, come merely from the ship taken, viz: the papers on board, and the examination, *on oath*, of the master and other principal officers; for which purpose there are officers of Admiralty in all the considerable seaports of every maritime Power at war, to examine the captains and other principal officers of every ship brought in as a prize, upon general and impartial interrogatories; if there do not appear from thence ground to condemn as enemy's property or contraband goods going to the enemy, there must be an acquittal, unless, from the aforesaid evidence, the property shall appear so doubtful that it is reasonable to go into further proof thereof.

"A claim of ship or goods must be supported by the oath of somebody, at least as to belief.

"The Law of Nations requires good faith; therefore, every ship must be provided with complete and genuine papers, and the master, at least, should be privy to the truth of the transaction.

"To enforce these rules, if there be false or colorable papers; if any papers be thrown overboard; if the master or officers, examined *in prelatorio*, grossly prevaricate; if proper ships' papers are not on board; or if the master and crew cannot say whether the ship or cargo be the property of a friend or enemy, the Law of Nations allows, according to the different degrees of misbehavior or suspicion, arising from the fault of the ship taken, and other circumstances of the case, costs to be paid, or not to be received by the claimants, in case of acquittal or restitution; on the other hand, if a seizure is made without probable cause, the captor is adjudged to pay costs and damages; for which purpose all privateers are

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obliged to give security for their good behavior; and this is referred to and expressly stipulated by many Treaties.

"Though, from the ships' papers, and the preparatory examinations, the property does not sufficiently appear to be neutral, the claimant is often indulged with time to send over affidavits to supply that defect; if he will not show the property, by sufficient affidavits, to be neutral, it is presumed to belong to the enemy. Where the property appears, from evidence, not on board the ship, the captor is justified in bringing her in, and excused paying costs, because he is not in fault; or, according to the circumstances of the case, may be justly entitled to receive his costs.

"If the sentence of the Court of Admiralty is thought to be erroneous, there is in every maritime country, a superior Court of Review, consisting of the most considerable persons to which the parties who think themselves aggrieved may appeal; and this superior Court judges by the same rule which governs the Court of Admiralty, viz: the Law of Nations, and the Treaties subsisting with that neutral Power, whose subject is a party before them.

"If no appeal is offered, it is an acknowledgment of the justice of the sentence by the parties themselves, and conclusive.

"This manner of trial and adjudication is supported, alluded to, and enforced, by many Treaties.

"In this method all captures at sea were tried, during the last war, by Great Britain, France, and Spain, and submitted to by the neutral Powers; in this method, by the Courts of Admiralty acting according to the Law of Nations and particular Treaties, all captures at sea have immemorially been judged of in every country of Europe. Any other method of trial would be manifestly unjust, absurd, and impracticable."

Such are the principles which govern the proceedings of the prize Courts

The following are the measures which ought to be taken by the captor, and by the neutral claimant, upon a ship and cargo being brought in as prize:

The captor, immediately upon bringing his prize into port, sends up, or delivers upon oath, to the registry of the Court of Admiralty, all papers found on board the captured ship. In the course of a few days the examinations in preparatory of the Captain and some of the crew of the captured ship are taken upon a set of standing interrogatories, before the Commissioners of the port to which the prize is brought, and which are also forwarded to the registry of the Admiralty as soon as taken; a monition is extracted by the captor from the registry, and served upon the Royal Exchange, notifying the capture, and calling upon all persons interested to appear, and show cause why the ship and goods should not be condemned; at the expiration of twenty days the monition is returned into the registry with a certificate of its service, and, if any claim has been given, the cause is then ready for hearing, upon the evidence arising out

of the ship's papers, and preparatory examinations.

The measures taken on the part of the neutral master or proprietor of cargo, are as follows:

Upon being brought into port, the master usually makes a protest, which he forwards to London as instructions (or with such further directions as he thinks proper) either to the correspondent of his owners, or to the Consul of his nation, in order to claim the ship, and such parts of the cargo as belong to his owners, or with which he was particularly entrusted; or the master himself, as soon as he has undergone his examination, goes to London to take the necessary steps.

The master, correspondent, or Consul, applies to a proctor, who prepares a claim, supported by an affidavit of the claimant, stating briefly to whom, as he believes, the ship and goods claimed belong, and that no enemy has any right or interest in them. Security must be given to the amount of sixty pounds to answer costs, if the case should appear so grossly fraudulent on the part of the claimant as to subject him to be condemned therein.

If the captor has neglected, in the mean time, to take the usual steps, (but which seldom happens, as he is strictly enjoined, both by his instructions and by the prize act, to proceed immediately to adjudication,) a process issues against him on the application of the claimant's proctor, to bring in the ship's papers and preparatory examinations, and to proceed in the usual way.

As soon as the claim is given, copies of the ship's papers and examinations are procured from the registry, and upon the return of the monition, the cause may be heard. It, however, seldom happens (owing to the great pressure of business, especially at the commencement of a war) that causes can possibly be prepared for hearing immediately upon the expiration of the time for the return of the monition. In that case, each cause must necessarily take its regular turn; correspondent measures must be taken by the neutral master, if carried within the jurisdiction of a Vice-Admiralty Court, by giving a claim, supported by his affidavit, and offering security for costs, if the claim should be pronounced grossly fraudulent.

If the claimant be dissatisfied with the sentence, his proctor enters an appeal in the registry of the Court where the sentence was given, or before a Notary Public, (which regularly should be entered within fourteen days after the sentence,) and he afterwards applies at the registry of the Lords of Appeal in prize causes (which is held at the same place as the registry of the High Court of Admiralty) for an instrument called an inhibition, and which should be taken out within three months, if the sentence be in the High Court of Admiralty, and within nine months, if in a Vice-Admiralty Court, but may be taken out at later periods if a reasonable cause can be assigned for the delay that has intervened. This instrument directs the Judge, whose sentence is appealed from, to proceed no further in the cause. It directs the registry to transmit a copy of all the pro-

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ceedings of the inferior Court; and it directs the party who has obtained the sentence to appear before the superior tribunal to answer to the appeal. On applying for this inhibition, security is given on the part of the appellant, to the amount of two hundred pounds, to answer costs in case it should appear to the Court of Appeals that the appeal is merely vexatious. The inhibition is to be served upon the Judge, the Register, and the adverse party and his proctor, by showing the instrument under seal, and delivering a note or copy of the contents. If the party cannot be found, and the proctor will not accept the service, the instrument is to be served "*vis and modis*;" that is, by affixing it to the door of the last place of residence, or by hanging it upon the pillars of the Royal Exchange. That part of the process above described, which is to be executed abroad, may be performed by any person to whom it is committed, and the formal part at home is executed by the officer of the Court; a certificate of the service is endorsed upon the back of the instrument, sworn before a Surrogate of the Superior Court, or before a Notary Public, if the service is abroad.

If the cause be adjudged in a Vice-Admiralty Court, it is usual, upon entering an appeal there, to procure a copy of the proceedings, which the appellant sends over to his correspondent in England, who carries it to a proctor, and the same steps are taken to procure and serve the inhibition, as where the cause has been adjudged in the High Court of Admiralty. But if a copy of the proceedings cannot be procured in due time, an inhibition may be obtained by sending over a copy of the instrument of appeal, or by writing to the correspondent an account only of the time and substance of the sentence.

Upon an appeal, fresh evidence may be introduced, if, upon hearing the cause, the Lords of Appeal shall be of opinion that the case is of such doubt as that further proof ought to have been ordered by the Court below.

Further proof usually consists of affidavits made by the asserted proprietors of the goods, in which they are sometimes joined by their clerks and others acquainted with the transaction, and with the real property of the goods claimed. In corroboration of these affidavits may be annexed original correspondence, duplicates of bills of lading, invoices, extracts from books, &c. These papers must be proved by the affidavits of persons who can speak to their authenticity; and if copies or extracts, they should be collated and certified by public notaries. The affidavits are sworn before the magistrates or others competent to administer oaths in the country where they are made, and authenticated by a certificate from the British Consul.

The degree of proof to be required depends upon the degree of suspicion and doubt that belongs to the case. In cases of heavy suspicion and great importance, the Court may order what is called "*plea and proof*;" that is, instead of admitting affidavits and documents introduced by the claimants only, each party is at liberty to allege, in regular pleadings, such circumstances as may

tend to acquit or condemn the capture, and to examine witnesses in support of the allegations, to whom the adverse party may administer interrogatories. The depositions of the witnesses are to be taken in writing. If the witnesses are to be examined abroad, a commission issues for that purpose; but in no case is it necessary for them to come to England. These solemn proceedings are not often resorted to.

Standing Commissioners may be sent to America for this general purpose of receiving examinations of witnesses in all cases where the Court may find it necessary, for the purpose of justice, to decree an inquiry to be conducted in that manner.

With respect to captures and condemnations at Martinico, which are the subjects of another inquiry contained in your note, we can only answer in general, that we are not informed of the particulars of such captures and condemnations; but as we know of no legal Court of Admiralty established at Martinico, we are clearly of opinion that the legality of any prize taken there must be tried in the High Court of Admiralty of England, upon claims given in the manner above described, by such persons as may think themselves aggrieved by the said captures.

We have the honor to be, &c.,

WM. SCOTT,

JOHN NICHOLL.

COMMONS, September 10, 1794.

I take the liberty of advising that these instructions, with a proper title prefixed, be printed in a pamphlet, and published for general information.

You will find, herewith enclosed, a copy of instructions of the King and Council, revoking the order to capture neutral vessels laden with corn, &c., bound to France. A gazette of the 6th September, containing an order restraining impressments, &c., and a gazette of 9th September, containing a copy of the order of 6th August, relative to appeals and claims, of which copies have already been sent to you.

I have the honor to be, &c.,

JOHN JAY.

*Mr. Jay to Mr. Randolph—No. 16.*

LONDON, September 14, 1794.

SIR: Mr. Morris will, together with this, deliver to you a long letter from me, dated yesterday.

The negotiation proceeds; and I now have some reason to hope that the business of the North-western corner will be so managed as to cease to be an obstacle to agreement.

I have proposed that the further discussion of that matter be postponed until accurate surveys of the river be made by joint Commissioners, at joint expense; and I do flatter myself that this proposition will be adopted. Of this I cannot yet be certain, but it is, however, my present opinion that it will.

I have the honor to be, &c.,

JOHN JAY.

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P. S. I wrote to you (No. 14) 23d August last, by Captain Scott, to Boston. My letter of yesterday is No. 15.

*Mr. Randolph to Mr. Jay.*

PHILADELPHIA, Sept. 17, 1794.

SIR: Your letter of July 9, 1794, referring to a long and particular letter of the 6th of the same month, having reached me yesterday, unaccompanied by the latter, we are thrown into a painful anxiety. My calculation has, however, been, that the Portuguese Minister, who is said to have arrived at New York from London the day before yesterday, may have been charged with it. As you speak of having closed it on the eighth, and by sending no duplicate in that of the ninth, you seem to have intended them both for the same vessel.

The copy of the acts passed during the last session of Congress were probably sent to New York from my office to you, as Chief Justice, and may have been forwarded from thence on the supposition of being destined for you in your diplomatic character. It will appear, from the enclosed list of papers transmitted to you from time to time, that no opportunity occurred to me, after the complete publication of those laws, until the 30th of July. Nothing has ever been enclosed to you without some explanatory notice of it.

The same list will show, if the letters noted there have not got to hand, how many have been written by me, and repeated by duplicates. In them the events which gave occasion to my correspondence with Mr. Hammond, and the expiration of the embargo, are detailed. The justice which you do me in suspecting that my letters were still on the way, I beg you to continue, as every occurrence bearing the most distant affinity to your mission has been immediately minuted down, and conveyed by the first vessel. But there is too much reason to fear that the reluctance of most Captains of ships to receive letters which contain a particle of politics; their readiness to surrender them to cruisers; and the little care taken of packets after they are landed, will disappoint both you and myself very frequently. In these times it is no small labor to search out the names and ports of vessels about to sail for Europe.

With the names of the new British Ministry before us, we predict nothing favorable to the United States, from this interweaving of parties. Without bringing a better disposition towards us, the projects may possibly render the operations of the Cabinet more cordial to the nation; and if Lord Dorchester's and Governor Simcoe's movements be indications of the purposes of Government; or the reports be true, that our vessels are still seized upon the old principles, without mercy, in Bermuda and the West Indies, any popularity of the Ministry is so much against us. My letter of August 30th, enclosing copy of Mr. Charles Williamson's of the 19th, together with another of the 12th instant, enclosing duplicates of the 18th and 30th of August, will develop the threat against the

settlement at Sodus; and in conjunction with John Kelly's affidavit, and Mr. Williamson's letter of the 1st instant, furnish the latest situation of this business.

You will have collected from my past letters that Thursday last, the 11th instant, was allotted for the taking of the votes in the insurgent counties of Pennsylvania, whether the terms settled between the Commissioners of Government and the committees appointed by them should be accepted; and yesterday for the report to Mr. Ross, one of those Commissioners, who undertook to attend at Uniontown, in Fayette county. We hope for a peaceable result; but the whole body of fifteen thousand militia are in motion, and incredible fervor has possessed all orders of people here; even many respectable Quakers have entered the volunteer ranks; three troops of horse and a large body of infantry are now in my view; the Jersey, Maryland, and Virginia militia, are advancing, in order to strike, if the overtures shall have been rejected. The insurrection will be quelled, be assured sir; and if any, to whom you may address yourself, shall draw inferences of disunion, and retract their good temper, they will be fatally disappointed. You will instantly call to mind the course of Governments and human nature; and be persuaded that the universal rising of a people against a handful of insurgents, scarcely the seventieth part of the Union, ignorant, poor, and unprovided with military means, will shoot the roots of the Government deep.

I have the honor to be, &c.,

EDM. RANDOLPH.

*Mr. Jay to Mr. Randolph—No. 17.*

LONDON, September 18, 1794.

SIR: You will receive, herewith enclosed, duplicates of my letters of the 13th and 14th of this month, which were committed to the care of Mr. Robert Morris, jr., who was to have sailed last Monday, in the Sansom, Captain Smith, from New York; I have since heard that he did not sail on that day, and, indeed, I am not certain that the Sansom has yet left Deptford. The last of these letters was a very short one, intended merely to hint to you that I had reason to hope that the business of the Northwest corner might be so managed, as not to be an obstacle to a settlement.

I have prepared and submitted to the consideration of Lord Grenville, an article stating that it was uncertain and doubtful whether the Mississippi extended to the west line from the Lake of the Woods; and, consequently, whether our Northern and Western lines closed in that corner; stating, also, that it would be premature to decide on, and endeavor to settle these questions, and others connected with them, while the parties remained uninformed of the actual extent, and other material circumstances of the river; then providing that all discussions on these subjects be postponed until a survey of the river should be made; and lastly, directing that it be made by joint Commissioners at the joint expense, and specifying



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particularly the manner of its being done. Lord Grenville received, and conversed with me about this article, in his usual temperate and candid manner; and I expect in a few days to have his answer.

Facilities for our ships in the East Indies, and several other interesting matters are under consideration; and upon the whole, the probability of our finally agreeing increases.

We shall also, I think, agree that any payments which may be directed by the proposed Commissioners relative to the debts, shall be postponed to the evacuation of the posts; in short, sir, my opinion of the disposition of the Cabinet and great mass of the nation towards us, becomes more confirmed. At any rate, let temper and a little longer patience on our part, give the negotiation a fair chance; one of two things will then certainly result from it—either peace or, if war, union. To continue to prepare for war will be wise, to avoid unnecessary asperities and indications of ill will, would be equally so.

I have the honor to be, &c.,

JOHN JAY.

*Mr. Randolph to Mr. Jay.*

PHILADELPHIA, Sept. 20, 1794.

SIR: The mail of yesterday from New York undeceived me in my expectation of your favor of the 6th of July, 1794, being in the hands of the Portuguese Minister, as I mentioned in the letter which I had the honor of writing to you on the 17th instant, acknowledging the receipt of yours of the 9th of July, and which will go, together with this, by the ———, destined to Liverpool. I have now before me your letters of the 6th, 12th, and 16th of July, 1794.

*Answer to that of July 6th.*

Your letters there referred to have come to hand. When you recollect the circumstances of the captures under the British instructions of November the 6th, you will not be surprised that none of them had been laid before Lord Grenville, or transmitted to Mr. Pinckney. The merchants had been, for a considerable time, invited by our Government to collect the various oppressions of our trade, and forward them to the Department of State. This induced the opinion that the Executive would take up the several cases on public ground; and they were, therefore, consigned to our management, except so far as appeals to England were entered. At the beginning of the last session of Congress, the President informed them by Message, that progress had been made in the assembling the various complaints, and afterwards a summary statement was reported to both Houses. The Senate required an abstract of each case, which produced a further delay; and the different fluctuations of temper, and diversity of projects, with respect to Great Britain, stagnated the measures of the Executive, and of the individuals interested, until the whole of the business was concentrated in your mission. But the call for particular cases by Lord Grenville is,

notwithstanding the frankness, candor, and promptness to discussion, hitherto shown by him, somewhat inauspicious. For, if the principle of these instructions is not to be relinquished, and compensation shall be admitted to be due only where some striking injustice or hardship shall be attached to peculiar examples, it will be only here and there that we shall be retributed, and our discontents will continue in their full asperity. And, indeed, we apprehend that a broad scale of satisfaction could not be contemplated by his lordship, when he expressed that there might be such a state of things as would render the interposition of Government proper and necessary to satisfy justice. However, I beg you to believe that, even if my conjectures on this head should unfortunately be true, there is not a man in the United States who is more thoroughly persuaded than myself, of your exertions to repel the consequences of an attempt to support the intolerable severity of the principle, without the sapping of which complete relief is scarcely to be expected.

The list of captures, with which you were furnished, was not intended to be more than the forerunner of the documents which have since reached you, and were to have been sent to you in ample form, by Mr. Higginson. But although Marston Watson's situation was not known at the time of my delivering his case to you, it has since turned out to be as appears in the enclosed short statement. Of the progress made by Mr. Higginson up to his death, you have been apprised in my letters of the 18th of July and 11th of August. His widow is possessed of several papers, probably records, which have been withheld from me, on account of their having come in a vessel infected with the yellow fever. As soon as they are purified I shall despatch them to you; and further measures will be pursued for obtaining the other records from the Admiralty Courts in the West Indies. But will you not have an immense labor, the duration of which cannot be easily foreseen, if you are personally to discuss each case, instead of leaving the minutiae (as was supposed to be best) to some subordinate characters?

Whatsoever may be necessary and proper to be said, on the part of the President, relative to the satisfactory reception given to you by the King and Queen, is submitted to your judgment.

I have the pleasure of informing you that the President approves of your letter to Lord Grenville, on the 3d of July, 1794; and while he is desirous of expedition in the conduct of the negotiation, he thinks, with you, that it ought not to be pushed beyond the dictates of prudence; but that it is expedient to be guided by occasions and circumstances, and to give every conciliatory application a fair experiment. It is his wish, too, that the characteristic of an American Minister should be marked, on the one hand, by a firmness against improper compliances, and on the other, by sincerity, candor, truth, and prudence, and by a horror of finesse and chicane. These ideas, however, will not oppose those temperate and firm representations which you meditate, should your present plan fail. For it is fair and indispensable,

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in the event of a rupture, to divide the nation from the Government. The system of peace begun by the President will be adhered to, so far as his functions are concerned, until he is driven from it by the British Government.

Before this letter arrives, Mr. J. Q. Adams will have presented himself to you, and obviated the inconveniences noticed in Mr. S. Bourne's letter to you.

*Answer to that of the 12th of July, 1794.*

The President approves the agreement that, during the present negotiation, and until the conclusion of it, all things remain and be preserved *in statu quo*. The War Department is instructed to issue correspondent orders, and the Department of State to notify the Governors in the neighborhood of those scenes to which the agreement relates.

*Answer to that of the 16th of July, 1794.*

The despatches to Mr. Hammond, enclosed in your letter of this date, were yesterday sent off by express to that gentleman.

The conduct of the Captain of the *William Penn* is a specimen of the numerous retardments which the negligence of persons in his line may bring upon our correspondence. His owners certainly gave the box most specially into his care. That you will find several papers, not very important to you, is certain; and I observed in a former letter that they were imperfect. Still it was necessary that they should be forwarded to you; and I am happy to discover that they have been acceptable to you. I have furnished, from time to time, everything which I could collect.

I can add nothing respecting the insurrection in the Western parts of this State, except that there is too much reason to conclude that several of the townships will hold out until the Militia shall approach them, or, perhaps shall have made themselves felt in some degree. The really leading, rich, and understanding men amongst them have, we believe, generally subscribed to be submissive to Government.

I have the honor to be, &c.,

EDM. RANDOLPH.

*Mr. Jay to Mr. Randolph—No. 18.*

LONDON, October 2, 1794.

SIR: You will, I hope, receive my letters, viz: No. 15 and No. 16, by Mr. Robert Morris, jr., who lately sailed in the *Sansom*, for New York. Duplicates of them, and No. 17, were committed to the care of Captain Loxley, of the *Pigou*, for Philadelphia; those despatches are interesting.

This will be delivered to you by Captain Morgan, of the brig *Molly*, who will leave this place for Philadelphia this evening.

I can add nothing of importance to my late communications, except that we are occupied in endeavoring to incorporate the two projects into one, to be entitled a Treaty of Amity and Commerce. I have proposed several additional articles. My hopes of agreement are not abated, but still the

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issue is uncertain. I think a few weeks more will enable me to inform you of the final result of the negotiation.

On the 25th ultimo I received a few lines from you, by the way of Cork, of the 15th August, informing me "that Mr. James King, the owner of the schooner *Nancy*, the papers in whose case had been forwarded as far as they were received, had that moment laid before you a copy of the record. That, from the whole proceedings, it appeared that she was acquitted at Nassau, upon the payment of costs, and that the captors had appealed. That, as this vessel and her cargo came within the catalogue of spoiliations, you request me to give directions for the employment of counsel in behalf of the United States, unless some adjustment which I might make with the British Ministry, on general grounds, should supersede the necessity of such a step."

I am thus particular in reciting this letter, because it seems to countenance implications, and admit of doubts which embarrass me.

In the case of the schooner *Nancy*, you desire me to employ counsel in behalf of the United States.

From this I think I must conclude generally, that the prosecution of the appeal in *this case* is to be carried on by and at the expense of the United States, and that I am to act accordingly.

The reason assigned for this measure is, because this vessel and her cargo came within the catalogue of spoiliations.

Is it intended that the like measure should be taken with respect to all or any other vessel and cargoes within that catalogue? Or is this case regarded as discriminated from the others?

I wish to know precisely what is expected from me relative to these subjects; and be assured that I will faithfully endeavor to fulfil your intentions, whatever their latitude or limitations may be.

I have the honor to be, &c.,

JOHN JAY.

P. S. Be so obliging as to send the enclosed letter for Mrs. Jay by the post.

*Mr. Randolph to Mr. Jay.*

PHILADELPHIA, October 11, 1794.

SIR: On the 7th current I was honored by your three letters of the 30th and 31st of July, and 2d of August, 1794; to-day, by your favor of the 21st of August, 1794.

By the conveyance of this letter, which is as yet unknown to me, I repeat duplicates of my former letters of the 12th, 17th, and 20th of September, with their several enclosures.

Having been absent from the practice of the law in Virginia for more than four years, I have written to a professional friend there for an accurate statement of the laws of that State relative to the evidence of book debts. His answer shall be forwarded. In the meantime, however, I have sufficient confidence in my knowledge of those laws up to July, 1790, and in my attention to the others which have been published at the close of each session since, to give the following informa-

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tion. To debts due to British subjects residing in Great Britain, by any of the inhabitants of the Colonies, a great facility of proof was afforded by the British statute of the 5th of George 2d, c. 7. This statute prevailed until the Revolution; when, with all other acts of Parliament not specially adopted, it necessarily expired. It is worthy, too, of remark, that the date of its enactment is long subsequent to that era at which British legislation ought to have ceased. I mean the 4th of James the 1st, which was the general limitation of the operation of British statutes in Virginia even before the war; although, indeed, you recollect a principle which our inability to resist sanctified, that statutes, after that epoch, expressly naming the Colonies, were permitted to operate. The advantages which the *ex parte* proof, warranted by the statute, gave to the British resident, were immense. But it is generally understood, though I believe it has never been adjudged, that this privileged form of evidence was not so much of the essence of the contract as to be revived with it.

In the year 1748 the act of Assembly, No. 1, was passed upon the same subject, and continued in force until the year 1780, in the May of which year, a new act, No. 2, was substituted.

I happened to be Clerk of the House of Delegates in Virginia when this last act was moved. The reason assigned was to abolish credit in merchandise, the facility of which had transferred multitudes of fortunes to transatlantic creditors. I recollect, too, that the nation which could give the longest credit, and speak our language, was considered as having too great an ascendancy over its competitors; and this law was designed to produce equality in the struggle by extinguishing credit. However, the consequence is, that the rule bears upon all people, British, French, Americans, and even Virginians in particular. Not a shilling of the old British debts can be affected. Who, then, can complain? I firmly believe that no posterior regulation of the evidence of both debts is admitted in Virginia.

Be assured, sir, that I will co-operate with you *here*, in the very laudable example of moderation which you have set on the other side of the water. I wish that I had any reason to expect a return of temper from the British Minister with us. But he shall not lead me astray.

October 13. Your favors of August 8th and 9th are now received.

If the instructions which Sir William Scott shall prepare, relate in any part to the giving of security, do not Higginson's, of which you carried a copy, show that the Government means to sustain the expenses of prosecution? I take the liberty of hinting this, that the demand for security may create no delay.

The impatience of the people is as great as you apprehend, and I am therefore more communicative than perhaps I should be on any other occasion. For I have, in an unauthoritative way, published the substance of some portion of your intelligence. You will find it in Fenno's papers of the 23d September and 8th instant. But I

persuade myself that nothing has been indiscreetly divulged.

The President being at Carlisle, I have forwarded to him copies of your letters noted above; together with another which I presumed to be private, and therefore did not open under the general license which he left with me. He will proceed to Bedford, where almost the whole force will unite, and he will decide whether to lead the army into the insurgent country, or to return to the meeting of Congress on the 3d of next month. I rather believe that he will return, because the submission to the laws is now nearly, if not absolutely universal; and the corps which may be required to overawe any latent spark of insurrection, and its object, are too small to demand his immediate presence.

October 18. Yesterday I had the honor of receiving your favor of the 23d of August.

The intimation of your wish that I should acknowledge your different letters, must have been found by you before this day to be strictly attended to. The importance of it is so obvious, that I have made it a standing memorandum.

I shall immediately publish your communications, exchanged with Lord Grenville, and contained in your letter No. 10. This would have been done upon their coming to hand, but the delicacy of giving in form parts of an incomplete negotiation had restrained me. This is now removed by your letter of the 23d of August, and I feel the propriety of sending them into public so fully, that I will venture to presume upon the President's approbation.

The order of His Britannic Majesty in council, when I first read it, appeared to me to call for some special agent to be appointed by the persons interested. But I own that I have much doubt whether the powers vested in you do not lead to an expectation that you would cause this branch of the business to be executed by some subordinate characters. However, I am to meet the merchants concerned this morning at 11 o'clock, when I shall converse with them on this subject, and will subjoin the result.

October 19. The merchants are much gratified by your exertions. But they were too numerous for the doing of real business, and therefore I requested them to appoint a standing committee, who should occasionally confer with me. They have accordingly nominated five, of whom Mr. Fitzsimons is the first, and I am to receive their sentiments to-morrow.

The enclosed report, from the Commissioners of the Union, completes the history of the insurrection as far as we have it, except that the mission of Messrs. Findley and Reddick to the President, as described in the late resolutions at Parkinson's Ferry on the 2d instant, has been too equivocal to justify an absolute suspension of the march of the army.

Mr. Higginson's death is no small embarrassment to us. His outfit and expenses have amounted to no inconsiderable sum, and the fruit has been small. The apprehension created by his fall of the savages of the yellow fever in the West In-

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dies, has rendered it impossible to procure another agent of sufficient fitness. Mr. Fitzsimons some time ago seemed to think that the appointment of a new agent had better be postponed, until something definite should come from you. This was not my opinion; but we were obliged to acquiesce, as no proper successor appeared to our view. I have no doubt that you will see the necessity of entering into some stipulation, which may prevent the sufferers under British depredation from being barred by the time, which, under these circumstances, may elapse before the appeals and claims can be filed.

I have sent instructions to Bermuda for procuring the records of condemnation there. But, from every account, Bridges Goodrich, who is the Prince of Privateers, is so unbounded in his influence over all classes of men in that island, that he may contrive to retard the copies. Indeed, the captures by cruisers, issuing thence, are more numerous than ever, and are multiplying every day. I am hourly asked how these things accord with pacific intentions.

The yellow fever, whatsoever may have been said to the contrary, has produced no alarm, no removal from this city; and if it was imported at all, the instances of its prevalence were few, and the traces of it are now absolutely obliterated. In Baltimore it is supposed to have been severe, but even there it has perfectly vanished.

General Wayne's success is announced in the paper of Bache, of October 2d.

I have the honor, sir, to be, &c.,

EDM. RANDOLPH.

*Mr. Randolph to Mr. Jay.*

PHILADELPHIA, October 20, 1794.

SIR: My letter of the 11th instant, concluding with the date of the 19th, has been sent to Mr. Pragers, whose vessel goes for Amsterdam ultimately, but intermediately for an English port.

Having left the completion of the references in that letter to another hand, I now find that the report of the Commissioners has been omitted; and hasten to supply the defect by the same conveyance.

Nothing has yet transpired from the President since the 10th instant. I suspect that he has proceeded to Fort Cumberland. Still I remain under the persuasion that military opposition from the insurgents is not to be expected; although it may be expedient to adopt arrangements for continuing a certain force to cover the officers of excise, and the officers for arresting the delinquents, for a considerable time hence; the representations of Findley and Reddick, as mentioned in Brown's paper, enclosed yesterday, not being so satisfactory as to render, according to my judgment, the return of the whole militia proper.

Your letter, No. 10, will not be published with your memorial and Lord Grenville's answer, unless the President shall direct it. The following are my reasons: 1. That the substance of it has been already published, with circumstances indicating its truth, though not with any formal au-

thenticity; 2d. That we shall be immediately charged with preparing the public mind for yieldings and sacrifices; 3. Because nothing being said of the posts, the cavillers would break out with idle stories (which, although they need not be feared, need not be courted) that the posts are passed over as of scarcely any concern; and thus unpleasant impressions may uselessly be left on the minds of many; 4. Because I have read the letter to those here who are alone interested, and who will communicate it to the others in different quarters, who are alike interested; and thus all who have any business with it will know it, and none will be ignorant, except those whose affair it is not; and 5. Because it not being absolutely necessary to be posted in a newspaper, both you and ourselves will be more the masters of the whole matter at its winding up.

The mode of conveyance precludes the sending of our newspapers, as they would certainly be rifled if dropped at an outpost.

I have the honor to be, &c.,

EDM. RANDOLPH.

*Mr. Randolph to Mr. Jay.*

PHILADELPHIA, October 29, 1794.

SIR: Duplicates of the two last letters which I had the honor of writing to you on the 19th and 20th current, will accompany this letter. They are intended to go by the Wilmington, for Bristol, from this port.

On Tuesday next, the *Adriana* will carry to London Mr. Samuel Bayard. In consequence of your recommendation that an agent should be sent, that gentleman goes over with the approbation of the merchants of this city interested in British captures, for the objects designated in your favor of the 23d August. When I convened them for the purpose of consultation, they seemed to have great reluctance to meddle at all in a business which they considered as taken wholly into the hands of Government. But, after many explanations and remarks, which passed between us, they resolved to appoint a committee, who should act in concert with me. That committee accordingly wrote to me the enclosed letter.

I accepted their proposal as there expressed, because I knew it to be consentaneous to the views of the President, who has this day signified his approbation. The merchants will immediately push on the appeals and claims as fast as the documents can be forwarded to London by their correspondents in the islands. Too much time cannot be allowed for this purpose, all difficulties being considered. We were all embarrassed by the inquiry whether it was necessary that these appeals and claims should be entered in the islands. I did not myself doubt, that negotiation might change the course of Admiralty Courts, so as to permit them to be instituted in England. But it did not sufficiently appear that this was your meaning. I therefore proposed that the persons who procured the records in the West Indies should file appeals and claims there, if, contrary to my expectation,

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it should be required in ordinary practice. This, they replied, was impracticable, alleging that neither their own credit, nor that of the United States, could obtain the enormous security which is demanded. So much of the fact as relates to the United States is verified by one of Mr. Higginson's letters, and what relates to themselves comes from a pure source. I therefore suggested this expedient: that Mr. Bayard should immediately on his arrival apply to you for information, whether the appeals and claims must begin in the islands: that, if this should be found to be according to the usual course required, you should be requested, if it were possible, and proper under all circumstances, to attempt to except from the general rule those instances in which security would be so serious a difficulty, and so great an impediment to justice: that, if this modification were unattainable, you would endeavor to stipulate for the giving of security in England: and, if at length nothing could be done but in the West Indies, letters of credit might be solicited from some mercantile houses in London to their correspondents in the islands, to induce them to join in the necessary bonds.

The President has confirmed this further branch of the arrangement, and Mr. Bayard can be used by you, in the execution of it, in any manner most agreeable to yourself. Although no special clause is inserted in your instructions with an eye to this shape of the affair, yet it cannot be necessary to send you formal and ostensible powers, to enable you to authorize Mr. Bayard to execute bonds, or to seek out those letters of credit. But you are hereby at the most ample liberty to vest him with the authority necessary for effectuating the foregoing purposes. This is particularized, lest you should not coincide in the opinion which I hinted in my letter of the 20th of September last, that, from the expression which relates to security in Higginson's instructions, and the latitude of your own powers, you might delegate such an authority, even without a special declaration to that effect in this place.

For the reasons assigned in my letter of the 11th instant, the President concurs in the measure of not publishing yours, No. 10. The memorial and answer which it contained are running through all the papers of the United States.

The return of the President from the Militia Army confirms, what I have often written to you, that the insurrection will not venture to show any degree of military opposition. Many of the insurgents have been arrested in different quarters, where their force, if they had any, must have been; but the arrests were perfectly quiet, and free from resistance. The Army has, however, marched to the centre of the disaffected counties, to impress and overawe. Some force will, no doubt, be left behind to complete the work. I shall endeavor to send, by Mr. Bayard, the speech which the President will deliver to Congress some time in the next week, as I presume that he will think the insurrection too important a subject to be passed over without notice. The newspapers will go by the same opportunity.

To prove to you the thoughtless severity which the British captains are disposed to exercise upon our citizens, under the name of piracy, I enclose to you my letter of the 23d instant to Mr. Hammond, and his disavowal of what Captain Cochran declares to be his orders.

I also enclose Mr. Hollin's letter, and shall inform him that I mean to transmit it to you, that it may pass into the agent's hands.

I shall write again by Mr. Bayard, and, in the meantime, have the honor to be, with sentiments of the highest respect and esteem,

EDMUND RANDOLPH.

*Mr. Jay to Mr. Randolph—No 19.*

LONDON, October 29, 1794.

SIR: I have been favored with yours of the 15th, 18th, and 30th of August, and of the 5th, 12th, 17th, and 20th of September last.

Although I have materials for another letter as long and particular as the one which I had the honor of writing to you on the 13th of September, yet sufficient time for details cannot possibly be spared from the business of the negotiation. I must confine myself to generals, and postpone a minute statement of the transactions which have taken place since the date of that letter to a future opportunity.

You have been informed that we had agreed to incorporate the two projects, viz: of a settlement and of a Commercial Treaty. I undertook this business, and prepared a draught, including most of the articles in those two, and adding several others, but all of them for mutual consideration. From these, Lord Grenville, extracting several, omitting some and adding others, formed a new draught. Difficulties have appeared, and been discussed; some have been removed, some lessened by proposed modifications, and a few still remain. It was proposed that goods for the Indian trade should pass from Canada to the Indians within the United States, duty free: to this I could not consent. It has been proposed that alien tonnage and impost should cease: to this there also appeared to me to be very strong objections. I think the former may be yielded, in some degree, to us; as to the latter, I cannot yet form a judgment.

We spent several hours on Friday and yesterday in these discussions, and they will be resumed to-morrow morning. I perceive nothing that indicates a desire to protract, and I think it cannot be long before the negotiation terminates either in a Treaty, or in a certainty that an amicable settlement is impracticable.

All propositions relative to a new line in our Northwestern corner are suspended. We have agreed that the river shall be surveyed, and its source ascertained. I think Canada and its Indian trade will be opened to us, but not the navigation of the St. Lawrence from the sea.

Although a more early day than the 1st of June, 1796, cannot be had for the evacuation of the posts, (for reasons which shall hereafter be mentioned) yet we agreed yesterday to add, "the



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United States, in the meantime, extending their settlements to any parts within their boundaries, except within the precincts of any of the posts."

I wish to take particular notice of your letters, but really, sir, I cannot do it now.

I feel very sensibly the confidence reposed in me by the permission to take such notice of my reception here as I might judge proper. The following is a copy of the letter which I have written to Lord Grenville on that subject:

ROYAL HOTEL, PALL MALL, Oct. 27, 1794.

MY LORD: The President, having been informed of the gracious reception with which their Majesties were pleased to honor me, has made it my duty to assure them of the sense he entertains of that pleasing mark of attention to the United States. He flatters himself that a negotiation, commenced under such favorable auspices, and conducted with a correspondent disposition to conciliation, will terminate in a settlement mutually satisfactory and beneficial.

He requests His Majesty to be persuaded that he will continue to promote every measure that may conduce to this desirable event; and that the United States will, with pleasure and alacrity, cherish the concord and good will which will naturally result from it. I am convinced, my lord, that this communication will derive advantages from the manner in which you will convey it to their Majesties; and I am the more gratified in addressing it to your lordship, as an additional opportunity is thereby afforded me of assuring you of the respect and esteem with which I have the honor to be your lordship's, &c.

The Right Hon. LORD GRENVILLE, &c.

I am preparing an official representation touching unfriendly interferences with the Indians, and I have reason to believe that a satisfactory answer will be given to it.

*Mr. Randolph to Mr. Jay.*

PHILADELPHIA, Nov. 3, 1794.

SIR: I do myself the honor of writing to you merely to inform you that I have now received an assurance from Mr. Marshall, (whom you know,) of Virginia, that the statement which I made to you in my letter of the 29th ult., on the evidence of the British debts, is accurate. Mr. Bayard sails on the 6th instant, by whom I shall enclose a copy of Mr. Marshall's information and of the President's speech.

There was not a sufficient number of either House of Congress to proceed to business to-day. To-morrow a quorum is certainly expected.

I have the honor to be, &c.,

EDM. RANDOLPH.

*Mr. Randolph to Mr. Jay.*

PHILADELPHIA, Nov. 7, 1794.

SIR: Notwithstanding Monday last was appointed for the meeting of Congress, a quorum of neither House then appeared. On Tuesday the Representatives assembled in sufficient numbers,

but the Senators are yet four short of a majority. This stagnates the communication from the President, and deprives me of an opportunity of adding more at present than the enclosure of Mr. Marshall's letter, mentioned in mine of the 3d instant, and the great respect and esteem with which I have the honor to be, sir, &c.,

EDM. RANDOLPH.

*Mr. Randolph to Mr. Jay.*

PHILADELPHIA, Nov. 8, 1794.

SIR: There is no prospect of Congress assembling until the day after to-morrow, and Mr. Bayard is compelled, by the sailing of the *Adriana*, to leave us to-morrow; I am therefore deprived of the pleasure of sending you the President's speech.

My answer to the letter of the committee of merchants, which I had the honor of enclosing to you on the 29th ultimo, is now forwarded, together with the newspapers.

Permit me to remark to you, that there are some cases of spoliation and vexation, which do not strictly come within the compass of Admiralty jurisdiction, or have been denied relief, and are not, as far as I can discover, within the stipulations between yourself and Lord Grenville: for example, plundering of goods; violence to the person; loss of freight, &c., where an acquittal has taken place, or no trial has been had. I own that these instances, especially where they have never been before a Court, do not admit an easy remedy, if the amenability of the British Government be considered, because they have probably proceeded from privateers; and, having never been brought before a Court, that Government cannot readily obtain cognizance of them. However, if it be practicable to make a reservation for the introduction of them before Commissioners, or in any manner which can ultimately create a resort to that Government for satisfaction, it will be extremely acceptable to the persons interested. As to the refusal of redress by the Courts, perhaps this reservation may be obtained.

Mr. Fitzsimons has just informed me that, when Martinique and Gaudaloupe were taken, a very large property of American merchants was found in the warehouses there, and carried off or destroyed. I asked him for the documents and proofs: he has promised to send them. If such losses are susceptible of a remedy, I am persuaded that your attention will be drawn to them.

The duplicates now sent are of the following dates: October 29, November 3d and 7th, 1794, together with their several enclosures.

I have the honor to be, sir, &c.,

EDM. RANDOLPH.

[NOTE.—The following despatches from Mr. Jay, and letters from the Secretary of State, with the exception of despatch No. 22, were not communicated to the Senate with the Treaty.]

*Mr. Jay to Mr. Randolph—No 20.*

LONDON, November 5, 1794.

SIR: It has now become almost certain that the draught of the Treaty will soon be perfected,

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and that when finished, it will, instead of being concluded, be sent to you for the consideration of the President; further instructions to me will then become necessary. I shall, when I send it, write to you on the subject as particularly as may be necessary, or as the time may admit.

With the best wishes for your health and happiness, I have the honor to be, sir, your most obedient and humble servant,

JOHN JAY.

The Hon. EDM. RANDOLPH,  
*Secretary of State, &c.*

*Mr. Randolph to Mr. Jay.*

PHILADELPHIA, Nov. 12, 1794.

SIR: Last evening I had the honor of receiving, through Mr. Morris, your favor of the 13th and 14th of September.

Although the immediate departure of the William Penn leaves too short a time for a copious reply to them, I must, after enclosing a duplicate of my letter of the 8th instant, trouble you with a few remarks on those points which attract notice on the first view.

The reasoning of Lord Grenville, in relation to the negroes, is so new to me, as are his observations on the first aggression, that their accuracy cannot be assented to without the fullest reflection.

Is there not some mistake in the copy of Lord Grenville's proposition for surrendering the posts, when the time is fixed to June, 1796? You proposed June, 1795; but, having made no comment on this extension of the epoch of delivery, you give reason to suppose that 1796 ought to be 1795: for such an epoch must be obviously unnecessarily long, and it is perhaps deserving of consideration whether, during so great an interval they will not be able to enter into more injurious arrangements of the Indian trade than they could if we should be their neighbors at Detroit a twelve-month sooner?

In the articles enumerated in your instructions, as heads of a Commercial Treaty, the leading idea was briefly stated, as, in most instances, it had been extracted from other Treaties subsisting between the United States and other nations. But it was not understood that privateering commissions were to be withheld from our citizens in case of a war between us and Great Britain; especially as Treaties are dissolved by war, unless some special provision is made for the continuance of certain stipulations even in time of war. No such provision exists in the short clause respecting privateering commissions; it being intended merely that the citizens or subjects of either nation, being neutral, should not engage in privateering against the other. To restrict privateers, on the event of a war between us and Great Britain, would cut up a most effectual resource for naval defence. Although Lord Grenville's counter-proposition seems to continue the right of privateering in full force, I am directed by the President to inform you, for the sake of preventing any mistake, that it is his earnest desire that such an agreement may not be concluded.

Ought not future inheritances in land, as well as present, be permitted to the people of either country, in the other?

May not Lord Grenville's stipulation for British subjects, and the Indians within our limits, to carry on trade as usual in the Northwestern country, produce great embarrassment, and all the heart-burnings of rivalry?

I am afraid that the terms *irregular* and *illegal* are not sufficient when applied to the captures of our vessels, to let many of them into compensation.

Among the correspondence which you carried with you between Mr. Jefferson and Mr. Hammond, you will find letters which prove that, for captures made by vessels armed in our ports, within certain periods, we ought not to be accountable. The propositions seem to go the whole.

The instructions of the 8th of June, 1793, are, in substance, renewed upon us by one of Lord Grenville's propositions.

I am suspicious that the phrase relative to the exception of prior Treaties, to wit: "in all cases in which they do not apply," will, at some future day, be tortured to a sense which probably is not intended by Lord Grenville now. Suppose that it should be insisted that the French Treaty does not apply, because the Government is so essentially changed? I do not think that fair construction will justify such a sentiment; but it will not be amiss to exclude its possibility.

The commercial project will be immediately examined: for we cannot, at this early moment, discover whether it be probable that the concessions will be such as to induce you, under your powers, to sign a Commercial Treaty, or to digest only; nor can we so immediately appreciate the different parts of the project.

If the prohibition to sell French prizes should commence sooner than the termination of the war, we shall be placed in very great difficulties; and I am pleased to observe that you are impressed with the force of this idea.

I have laid the opinion of Dr. Nicholl and Sir William Scott before the merchants. We shall endeavor to give it its full effect.

These ideas are not felt by me to be in all respects accurate. I shall revise them, and shall particularly keep in view that both the language and matter of the propositions will undergo great alterations and new arrangements. But I will take the liberty of suggesting that it may be well to avoid, as much as possible, postponements of final settlements. You know from history that Commissioners, who meet after a peace, are very apt to sow the seeds of war.

I have the honor to be, sir, with great respect and esteem your most obedient servant,

EDM. RANDOLPH.

*Mr. Jay to Mr. Randolph—No 21.*

LONDON, November 17, 1794.

SIR: A Treaty agreed upon and copied, I expect, will be signed to-day or to-morrow, and sent by the packet.

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In my letter, No. 19, dated the 29th October, I mentioned that I had written a letter to Lord Grenville on the subject of my reception here; of that letter I sent a copy, but the answer had not then been received. I now subjoin copies of both, and have the honor to be, sir, your most obedient humble servant,

JOHN JAY.

The Hon. EDM. RANDOLPH,  
*Secretary of State, &c.*

*To the Right Honorable Lord Grenville, &c., &c.*

ROYAL HOTEL, PALM MALL, Oct. 27, 1794.

MY LORD: The President having been informed of the gracious reception with which their Majesties were pleased to honor me, has made it my duty to assure them of the sense he entertains of that pleasing mark of attention to the United States. He flatters himself that a negotiation commenced under such favorable auspices, and conducted with a correspondent disposition to conciliation, will terminate in a settlement mutually satisfactory and beneficial. He requests His Majesty to be persuaded that he will continue to promote every measure that may conduce to this desirable event; and that the United States will, with pleasure and alacrity, cherish the concord and good will which will naturally result from it.

I am convinced, my lord, that this communication will derive advantages from the manner in which you will convey it to their Majesties; and I am the more gratified in addressing it to your lordship, as an additional opportunity is thereby afforded me of assuring you of the respect and esteem with which I have the honor to be, my lord, your lordship's most obedient, humble servant,

JOHN JAY.

*To John Jay, Esquire, &c.*

DOWNING STREET, October, 1794.

SIR: I have taken the earliest opportunity to lay before the King your letter of the 27th inst., and I have it in command to express to you the satisfaction which His Majesty has derived from the sentiments which you have been charged to convey to me on the part of the President of the United States; and to assure you that there exists, on His Majesty's part, the same disposition towards the object of conciliation and friendship.

I trust you are convinced of the satisfaction which those who are honored with His Majesty's confidence will always feel in executing, to the best of their power, His Majesty's intentions in this respect.

It has, on that account, been matter of the greatest satisfaction to me that, in the course of a negotiation directed to the attainment of this desirable object, I have to treat with a Minister whose dispositions and conduct are so well calculated to promote it. I trust, with no small degree of confidence, that the final issue of our joint endeavors will be such as, I am persuaded, we both wish; but, in every case, I shall always retain those sentiments of the most sincere respect and

esteem, with which I have the honor to be, sir, your most obedient, humble servant,  
GRENVILLE.

*Mr. Jay to Mr. Randolph—No. 22.*

LONDON, November 19, 1794.

SIR: The long expected Treaty accompanies this letter; a probability of soon concluding it has caused the packet to be detained for more than a week. The difficulties which retarded its accomplishment frequently had the appearance of being insurmountable; they have at last yielded to modifications of the articles in which they existed, and to that mutual disposition to agreement which reconciled Lord Grenville and myself to an unusual degree of trouble and application. They who have levelled uneven grounds, know how little of the work afterwards appears.

Since the building is finished, it cannot be very important to describe the scaffolding, or go into all the details which respected the business. Explanatory remarks on certain articles might be useful, by casting light on governing principles, which, in some instances, are not so obvious as to be distinctly seen on the first view. Feeling the want of leisure and relaxation, I cannot undertake it in this moment of haste. I must confine myself to a few cursory observations, and hope allowances will be made for inaccuracies and omissions.

My opinion of the Treaty is apparent from my having signed it. I have no reason to believe or conjecture that one more favorable to us is attainable.

Perhaps it is not very much to be regretted that all our differences are merged in this Treaty, without having been decided; disagreeable imputations are thereby avoided, and the door of conciliation is fairly and widely opened, by the essential justice done, and the conveniences granted to each other by the parties.

The term limited for the evacuation of the posts could not be restricted to a more early day; that point has been pressed. The reasons which caused an inflexible adherence to that term, I am persuaded, were these, viz: That the traders have spread through the Indian nations goods to a great amount; that the returns for those goods cannot be drawn into Canada at an earlier period; that the impression which the surrender of all the posts to American garrisons will make on the minds of the Indians cannot be foreseen. On a former occasion it was intimated to them (not very delicately) that they had been forsaken, and given up to the United States; that the protection promised on our part, however sincere, and however, in other respects, competent, cannot entirely prevent those embarrassments which, without our fault, may be occasioned by the war; that, for these reasons, the traders ought to have time to conclude their adventures, which were calculated on the existing state of things; they will afterwards calculate on the new state of things; but that, in the mean time, the care of Government should not be withdrawn from them.

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The third article will, I presume, appear to you in a favorable light; a number of reasons which, in my judgment, are solid, support it. I think they will, on consideration, become obvious. It was proposed and urged that the commercial intercourse opened by this article ought to be exempted from all duties whatever on either side. The inconveniences which we should experience from such a measure were stated and examined; it was finally agreed to subject it to native duties. In this compromise, which I consider as being exactly right, that difficulty terminated; but for this compromise the whole article would have failed, and every expectation of an amicable settlement been frustrated. A continuance of trade with the Indians was a decided ultimatum; much time and paper, and many conferences were employed in producing this article; that part of it which respects the ports and places on the eastern side of the Mississippi, if considered in connexion with the ——— article in the Treaty of Peace, and with the article in this Treaty which directs a survey of that river to be made, will, I think, appear unexceptionable.

In discussing the question about the river St. Croix, before the Commissioners, I apprehend the old French claims will be revived; we must adhere to Mitchell's map. The Vice President perfectly understands this business.

The sixth article was a *sine qua non*, and is intended as well as calculated to afford that justice and equity which judicial proceedings may, on trial, be found incapable of affording. That the Commissioners may do exactly what is right, they are to determine according to the merits of the several cases, having a due regard to all the circumstances, and as justice and equity shall appear to them to require.

It is very much to be regretted that a more summary method than the one indicated in the seventh article could not have been devised and agreed upon for settling the capture cases; every other plan was perplexed with difficulties, which frustrated it. Permit me to hint the expediency of aiding the claimants, by employing a gentleman, at the public expense, to oversee and manage the causes of such of them as cannot conveniently have agents of their own here; and whether, in some cases, pecuniary assistance might not be proper. I do not consider myself at liberty to make such an appointment, nor to enter into any such pecuniary engagements. It would, probably, be more easy to find a proper person on your side of the water than on this. Here there are few fit for the business, and willing to undertake it, who (having many affairs of their own to attend to) would not be tempted to consider the business of the claimants in a secondary light; several objections to giving him a fixed salary are obvious; in my opinion a moderate commission on the sum to be recovered and received, would be a more eligible method of compensating him for his services. Our Consul here talks, and, I believe, in earnest, of returning to America, or I should expect much advantage from his zeal and endeavors to serve such of the claim-

ants as might commit their business to his management.

You will find in the eighth article, a stipulation which, in effect, refers the manner of paying the Commissioners very much to our election. I prefer paying them jointly; the objection to it is, that the English pay high. I have always doubted the policy of being penny-wise.

The Lord Chancellor has prepared an article respecting the mutual admission of evidence, &c., which we have not had time fully to consider and decide upon; it contains a clause to abolish alienism between the two countries. His lordship's conduct and conversation indicate the most friendly disposition towards us; a copy of his article shall be sent, and I wish to receive precise instructions on that head.

The credit of some of the States having, to my knowledge, suffered by appearances of their being favorable to the idea of sequestrating British debts on certain occasions, the tenth article will be useful. Persons wishing to invest their property in our funds and banks, have frequently applied to me to be informed whether they might do it without risk of confiscation or sequestration; my answer has been uniform, viz: that, in my opinion, such measures would be improper, and therefore, that, in my opinion, they would not be adopted; some pressed me for assurances, but I have declined giving any.

The twelfth article, admitting our vessels of seventy tons and under, into the British West Indies, affords occasion for several explanatory remarks. It became connected with a proposed stipulation for the abolition of all alien duties, of every kind, between the two countries. This proposition was pressed, but strong objections opposed my agreeing to it; a satisfactory statement of the negotiation on this point would be prolix; at present, I cannot form a very concise one, for that would not require less time: the selection and arrangement necessary in making abridgments, cannot be hastily performed. The duration of this article is short, but if we meet the disposition of this country to good humor and cordiality, I am much inclined to believe it will be renewed; the duration of the Treaty is connected with the renewal of that article, and an opportunity will then offer for discussing and settling many important matters.

The article which opens the British ports in the East Indies to our vessels and cargoes, needs no comment. It is a manifestation and proof of good will towards us.

The questions about the cases in which alone provisions become contraband, and the question whether, and how far, neutral ships protect enemy's property, have been the subjects of much trouble, and many fruitless discussions. That Britain, at this period, and involved in war, should not admit principles which would impeach the propriety of her conduct in seizing provisions bound to France, and enemy's property on board of neutral vessels, does not appear to me extraordinary. The articles, as they now stand, secure compensation for seizures, and

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leave us at liberty to decide whether they were made in such cases as to be warranted by the existing Law of Nations; as to the principles we contend for, you will find them saved in the conclusion of the twelfth article, from which it will appear that we still adhere to them.

The articles about privateers were taken from the Treaty of Commerce between Great Britain and France, and the one for treating natives, commanding privateers, as pirates, in certain cases, was partly taken from ours with Holland.

The prohibition to sell prizes in our ports had its use; and we have no reason to regret that your instructions to me admitted of it.

Various articles, which have no place in this Treaty, have, from time to time, been under consideration, but did not meet with mutual approbation and consent.

I must draw this letter to a conclusion: Lord Grenville is anxious to dismiss the packet as soon as possible.

There is reason to hope that occasions for complaint on either side will be carefully avoided. Let us be just and friendly to all nations.

I ought not to omit mentioning the acknowledgments due from me to Mr. Pinckney, with whom I have every reason to be satisfied, and from whose advice and opinions I have derived light and advantage in the course of the negotiation. His approbation of the Treaty gives me pleasure, not merely because his opinion corresponds with my own, but also from the sentiments I entertain of his judgment and candor.

It is desirable that I should have the earliest advice of the ratification; and be enabled to finish whatever may be expected of me, in season to return in one of the first Spring vessels. My health is not competent to a Winter's voyage, or I should be the bearer of the Treaty. This climate does not agree with me, and the less so on account of the application and confinement to which it was necessary for me to submit.

I had almost forgotten to mention that, on finishing and agreeing to the draught of the Treaty, I suggested to Lord Grenville, as a measure that would be very acceptable to our country, the interposition of His Majesty with Algiers, and other States of Barbary, that may be hostile to us. This idea was favorably received, and it is my opinion that this Court would, in good earnest, undertake that business, in case nothing should occur to impeach the sincerity of that mutual reconciliation which it is to be hoped will now take place.

It will give you pleasure to hear that great reserve and delicacy has been observed respecting our concerns with France. The stipulation in favor of existing Treaties was agreed to without hesitation; not an expectation, nor even a wish has been expressed that our conduct towards France should be otherwise than fair and friendly. In a word, I do not know how the negotiation could have been conducted, on their part, with more delicacy, friendliness, and propriety, than it has been from first to last.

I have the honor to be, &c.,

JOHN JAY.

*Mr. Jay to Mr. Randolph—No. 23.*

LONDON, November 20, 1794.

SIR: I received last night a letter from Lord Grenville, of which the following is a copy:

DOWNING STREET, November 19, 1794.

SIR: I have the honor to transmit to you the papers which you have already seen relative to the claims of certain persons having rights of remainder, or other interests in estates, confiscated in America during the late war, but whose rights or interests, according to justice, and the established laws under which those estates were held, could not be affected by such confiscation.

I have no doubt, both from the justice of the case itself, and from what has passed between us respecting it, that if, on inquiry in America, it should appear that any impediments to the prosecution of such claims in the ordinary course of justice have existed, or still exist, these cases will be considered as being completely within the principle of the article in the Treaty signed between us this day respecting the British creditors. But as you did not possess sufficient information respecting the particulars of this business to be enabled to enter fully into it, I have transmitted to you the papers relative to it, and I shall be obliged to you if, when you have received further information upon it, you will acquaint me in what situation you conceive the parties interested in it to stand, with respect to the means of recovering their rights in the ordinary course of justice.

I also transmit to you, for a similar purpose, an application which I have received from a particular class of British creditors, whose case is there stated.

I cannot conclude this letter without repeating to you the very great satisfaction I have derived from the open and candid manner in which you have conducted, on your part, the whole of the difficult negotiation which we have now brought to so successful an issue, and from the disposition which you have uniformly manifested to promote the objects of justice, conciliation, and lasting friendship, between our two countries.

These dispositions are perfectly reciprocal on the part of this Government, and I am happy in any opportunity of expressing them to you, and of renewing to you the sincere assurances of the very great personal esteem and regard with which I have the honor to be, sir, your most obedient humble servant,

GRENVILLE.

TO JOHN JAY, Esq., &c.

The fifth article of the Treaty of Peace concluded with the following paragraph, viz:

"And it is agreed that all persons who have any interest in confiscated land, either by debts, marriage settlements, or otherwise, shall meet with no lawful impediments in the prosecution of their just rights."

Lord Grenville lately mentioned to me that there were persons who had interests in confiscated lands, and that it was reasonable those interests should be taken care of by the present Treaty. He named the case of Lord Fairfax's



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estate, and that of Colonel Roger Morris, in the State of New York. I answered that my information respecting those cases was too imperfect to permit me to enter into any particular stipulations respecting them individually, or respecting the others that were generally alluded to in the above article; that I was not apprised of any lawful impediments to the prosecution of such rights as that article contemplated, but I concurred with him in opinion that, if there had been, or still were, such impediments, those cases were within the same principle, and had the same claims to justice and equity as the cases of British creditors, and ought to be provided for accordingly.

The papers I received from him last night are too voluminous to be copied in season to accompany this letter; it is absolutely impossible. You will receive them by the next ship.

The application mentioned in his letter, and which "he had received from a particular class of British creditors," &c., is a memorial of divers American loyalists, &c. These persons (whose estates were confiscated) think they have a right to recover the debts that were due to them, and that the article of the Treaty of Peace in favor of British creditors applies to them. This cannot, in my opinion, be admitted, and will, I believe, give us no trouble.

I have the honor to be sir, your most obedient and humble servant,

JOHN JAY.

To the Hon. EDM. RANDOLPH, Esq.,  
Secretary of State, &c.

Mr. Jay to Mr. Randolph—No. 24.

LONDON, November 21, 1794.

SIR: On the 19th instant a Treaty was signed. The next day it was, together with my letters to you, Nos. 21, 22, and 23, despatched to the packet at Falmouth, which had been detained.

I now send you duplicates of them all by Mr. Blaney, a gentleman of Virginia, recommended to me by Governor Lee. The earliest advices from you will be expedient. There are articles in this Treaty which will give strength to our applications to other Powers for extensions of commerce. Much use may be made of them.

I daily become more and more convinced of the general friendly disposition of this country towards us. Let us cherish it. Let us cultivate friendship with all nations. By treating them all with justice and kindness, and by preserving that self-respect which forbids our yielding to the influence or policy of any of them, we shall, with the Divine blessing, secure peace, union, and respectability.

I feel very sensibly the confidence that has been reposed in me, as well as the responsibility that resulted from it. If this Treaty should prove beneficial, I shall not regret my anxiety and efforts to render it so. The Canada article strikes me as one of the best in it. If discreetly managed, important benefits will, in my opinion, be derived from it. Very much ought not to be written on these subjects.

That the termination of these perplexing differences should be effected during your administration of the Foreign Department, cannot fail to give you pleasure. It will afford some compensation for the trouble you have had, and relieve you from the disagreeable correspondences to which such differences frequently give occasion.

Accept my thanks for the many interesting communications and marks of attention I have received from you in the course of the negotiation, and be assured that I am, with every corresponding sentiment, sir, your most obedient and most humble servant,

JOHN JAY.

HON. EDM. RANDOLPH, Esq.,  
Secretary of State, &c.

Mr. Jay to Mr. Randolph—No. 25.

LONDON, December 6, 1794.

SIR: Copies of the papers mentioned in my letter (No. 23) are hereunto subjoined.

I have the honor to be, sir, your most obedient humble servant,

JOHN JAY.

OFFICE OF AMERICAN CLAIMS,  
August 13, 1790.

DEAR SIR: I send you extracts of some papers and reports relative to the claim of Colonel Morris and his children. The other cases of a similar nature are those of Lord Fairfax and Mr. Martin, and you will see the Attorney General's opinion applies to all of them.

Yours, very sincerely,  
JOHN WILMOT.

GEORGE ROSE, Esq., &c.

NAMES.	Province.	Value of the fee simple.	Value of the life interest.	Value of the reversion.
Col. R. Morris and Mary his wife.	N. York	£20,000	£12,605	£7,395
Samuel Martin	Virginia	13,115	6,500	6,615
Rt. Hon. Lord Fairfax.	Virginia	60,000	13,758	46,242

N. B. Colonel Morris, Mr. Martin, and Lord Fairfax, have received their certificates for the value of their life interests.

Mr. Attorney General's opinion in the case of Mr. and Mrs. Morris.

What interpretation the State of New York may give to their act of attainder I don't know; but nothing is more clear, that, if a similar act of attainder against Mr. and Mrs. Morris had passed here, it would not have affected the remainder limited to the children who are not attainted; and they seem to me, upon this state of the case, to be most clearly entitled to the benefit of the last clause of the 5th

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article of the Treaty of Peace with America. Under these circumstances, I cannot advise the Commissioners to consider this remainder in fee as absolutely lost, until an attempt has been made to obtain that justice in America to which they are entitled, and the refusal of which will, in my opinion, be a direct violation of the Treaty. If they cannot obtain justice ultimately, they certainly ought to have a compensation; and therefore I think the Commissioners, after having made a compensation to Mr. and Mrs. Morris for their life interest, should state specially the case of the children, as that may hereafter be of use to them if they fail in seeking redress in America.

R. P. ARDEN.

MARCH 31, 1787.

N. B. As there are two or three other cases similarly circumstanced, the Commissioners considered them altogether in a separate class, and made a general observation upon them in their general reports, particularly that of May 15, 1789. *Vide extracts.*

*Extract from the report of the Commissioners of American Claims, dated 7th April, 1786.*

We have not considered any interest in confiscated lands, whether by debt, marriage settlement, or otherwise, as lost to the parties, (in cases where such parties are not named in, or are not the immediate object of, the confiscation law,) though we apprehend it may be difficult for them, without the aid of Government, to have their rights ascertained and secured.

We have thought it our duty to represent this to your lordships, as we apprehend it to be one of the objects of our inquiry to furnish Government with such information as may promote His Majesty's endeavors to procure from the United States of America restitution of, or recompense for, the estates and effects of the sufferers under the provisional article, as stated in the preamble of the act which first instituted the inquiry.

*Extract from the report of the Commissioners of American Claims, dated 5th April, 1788.*

There is likewise another description of persons, concerning whom we have been under considerable difficulties, as stated in our fifth report of the 7th April, 1786, namely, of loyal British subjects, who appear to have relief under the Treaty of Peace, but state the utter impossibility of procuring it. We have stated these losses, therefore, in a separate class, (the eleventh,) in order to facilitate the endeavors of Government to procure from the United States of America a restitution of, or recompense for, the estates and effects of the sufferers under the Treaty of Peace, or if that Government and the Legislature may be enabled to make them compensation at home, if it should be thought proper.

*Extract from the report of the Commissioners of American Claims, dated 15th May, 1789.*

With respect to the eleventh class, (viz., of those who appear to have relief by the Treaty of Peace,) it is to be observed that it consists of the value of reversionary interest in estates expectant on the determination of lives now in being, the value of the life interests being included in some of the other classes. It is proper to observe, likewise, that the fee of the property in these instances has been seized, confiscated, and sold, by the respective States in whose territory the property lies; and notwithstanding the provisions of the Treaty of Peace, we are afraid there is little probability of the recovery of such reversionary interests by the persons entitled in remainder. We submit, therefore, to the consideration of Government and Parliament, whether it will be more eligible to make those persons who have lost their life-interests a compensation only for the loss of those life-interests, or to make a compensation for the fee simple of the property, to be paid to trustees, subject to the same uses to which the estates were settled; by which means, for a comparatively small additional consideration, those entitled in remainder will have no future claim on the justice and liberality of the nation, if they should not recover their property on the death of the tenants for life; and this country will become creditor of the different States for the value of this reversionary property, whenever an arrangement shall take place between the two countries of their respective interests and pretensions.

*Extract from the decision of the Commissioners of American Claims, on the claim of Colonel Roger Morris, and Mary his wife.*

The Board is of opinion that the value of the fee simple of the said estate was £20,000, and that the value of the interest of the said Colonel R. Morris, and Mary his wife, for their joint lives, and the life of the survivor, (as calculated by Mr. William Morgan, actuary to the Equitable Society of Annuityants,) is £12,605.

The Board, under all the circumstances of the case, is of opinion that the loss of the said Colonel R. Morris, and Mary his wife, must be confined to the said sum of £12,605, which sum they accordingly allow for the same; but they do not consider the interests of the children of the marriage as being lost, the same being protected by the fifth article of the Treaty of Peace.

*Extract from the decision of the Commissioners of American Claims, on the claim of Samuel and George Martin.*

The Commissioners disallow the claim, (so far as the reversionary interest of the son, George Martin, is concerned,) considering the same to be protected by the fifth article of the definitive Treaty of Peace between Great Britain and America.

Although the Commissioners are of opinion the reversionary interest of the claimant, George Martin, must be considered as being protected by the fifth article of the Treaty of Peace, it appears, nevertheless, that the whole property has in fact been seized and forfeited as the fee simple estate of the said Samuel Martin. And although a repre-

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sentation has been made to the Legislature of Virginia, setting forth the interest the said George Martin was entitled to therein, no attention whatever has been paid thereto.

*Decision on the claim of the Right Honorable Robert Lord Fairfax, on behalf of himself and of Frances Martin, (widow, his sister,) and of Denny Fairfax, D. D., Philip Martin, Esq., and Thomas Martin, Esq., (his nephews and their three sisters, his nieces.) Claim £98,000.*

MY LORDS: The case of the Right Honorable Lord Fairfax being in many respects peculiarly circumstanced, and being of considerable importance in respect to the magnitude of the claim, we have thought fit to make it the subject of a separate report.

We find that His late Majesty, King James the Second, by letters patent, bearing date the 27th day of December, in the fourth year of his reign, which recite former letters patent of King Charles the Second, bearing date the 8th day of May, in the twenty-first year of his reign, did give, grant, and confirm, unto the Right Honorable Lord Culpeper (grandfather of the claimant) all that entire tract, territory, or parcel of land, in Virginia, in America, and bounded by and within the first heads or springs of the river of Tappahannock alias Rappahannock, and Querough alias Potomac river—the courses of the said rivers from their first heads or springs, as they are commonly called and known by the inhabitants and descriptions of those parts, and the Bay of Chesapeake, together with the said rivers themselves, and all the lands within the uttermost banks thereof, and the soil of all and singular the premises, and all the lands, &c.—to have, hold, and enjoy, the said granted premises to, and to the use of, the said Thomas Culpeper, his heirs and assigns forever, at the rent of £6 13s. 4d., payable as therein mentioned; all which said granted premises are commonly known and distinguished by the name of the Northern Neck of Virginia.

That all the said granted premises were, under such grants, held and enjoyed by the said Thomas Lord Culpeper from thenceforth to the time of his death, when the same became the property of, and vested in, the Right Honorable Catharine, late Lady Fairfax, his daughter, who, by her last will and testament, bearing date the 21st day of April, 1719, devises the same (*inter alia*) by the description of all her honors, lands, plantations, and premises in Virginia, unto William Cage, of Milgate, in the parish of Bersted, in the county of Kent, Esquire; and Edward Filmer, of East Sutton, in the said county, Esquire; to hold the same unto the said William Cage and Edward Filmer, and their heirs and assigns forever, upon the said several trusts therein and hereinafter described—that is to say:

Upon trust in the first place by mortgage, a sale of a sufficient part of the estates thereby devised, to raise a sufficient sum for discharging all her debts, legacies, and funeral expenses; and after such mortgage, sale, and disposition, to the use of her

eldest son, Thomas Lord Fairfax, and his assigns, for life.

Remainder to the said William Cage, and Edward Filmer, and their heirs, as trustees to preserve contingent remainders.

Remainder to the first and other sons of the said Thomas Fairfax, in tail male.

Remainder to her second son, Henry Culpeper Fairfax, and his assigns, for life.

Remainder to trustees, to preserve contingent remainders.

Remainder to the first and other sons of the said Henry Culpeper Fairfax, in tail male.

Remainder to her third son, Robert Fairfax, and his assigns, for his life.

Remainder to trustees, to preserve contingent remainders.

Remainder to the first and other sons of the said Robert Fairfax, in tail male.

Remainder to the daughters of the said testatrix, as tenants in common, in tail.

Remainder to the right heirs of the said testatrix, in fee.

The said Catharine Lady Fairfax died in the said year 1719, soon after the making of her said will; whereupon the aforesaid lands and premises, under the devise contained, became vested in the said Thomas Lord Fairfax, for the term of his natural life.

We find by a survey produced to us, made in the years 1736 and 1737, that the quantity of land contained within the boundary described in the aforesaid grant of King James the Second, was five millions two hundred and eighty-two thousand acres, a considerable part whereof, at the time of the breaking out of the troubles in America, had been granted by the late Thomas Lord Fairfax, and his predecessors, upon quit rents; other parts had been appropriated by his lordship as his private estate, and the remainder lay waste and ungranted.

We find that the said Thomas Lord Fairfax, who resided in Virginia, at the commencement of and during the troubles in America, conducting himself as a loyal subject to His Majesty, but being of a very advanced age, (upwards of fourscore years,) for that reason, as we presume, he was not divested of the said estates during his lifetime, but was permitted to hold and enjoy the same until his death, which happened in the year 1781; whereupon the same descended to, and became vested in the claimant, Lord Robert Fairfax, for the term of his natural life, (the said Henry Culpeper Fairfax having, many years before, died unmarried, and without issue,) but owing to divers laws which have been since enacted by the State of Virginia, and which are hereafter set forth, he has been prevented from taking possession of, and enjoying the same: for we find that, by an act of Assembly of the said State, passed at a session begun the 21st day of October, 1782, entitled "An act to amend and reduce the several acts of Assembly for ascertaining certain taxes and duties, and for establishing a permanent revenue into one act:" after reciting that, among other things, that no provision was made

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by the said act, or by the act for equalizing the land tax, to credit the citizens in the Northern Neck for so much of the land tax as their respective quit rents might amount to; and that, since the death of the late proprietor of the Northern Neck, there was reason to suppose that the said proprietorship had descended upon alien enemies. It was therefore enacted, that persons holding land in the Northern Neck should retain sequestered in their hands all quit rents which were then due, until the right of descent should be more fully ascertained, and the General Assembly should make final provision thereon. And all quit rents which might thereafter become due within the limits of the said Northern Neck, were directed to be paid into the public Treasury under the operation of the laws of that session of Assembly, from which quit rents the inhabitants of the said Northern Neck were thereby exonerated from the future claim of the proprietor.

By another act of the same session of Assembly, entitled "An act concerning surveys," after reciting that the death of the Right Honorable Thomas Lord Fairfax might occasion great inconvenience to those who might incline to make entries for vacant lands in the Northern Neck, it was enacted that all entries made with the surveyors of the counties within the Northern Neck, and returned to the office formerly kept by Thomas Lord Fairfax, should be held, deemed, and taken as good and valid in law, as those theretofore made under the direction of the said Thomas Lord Fairfax, until some mode should be taken up and adopted by the General Assembly concerning the territory of the Northern Neck.

By another act, passed at the session begun the 5th day of May, 1783, entitled "An act to amend the act to amend and reduce the several acts of Assembly for ascertaining certain taxes and duties, and for establishing a permanent revenue, into one act," after reciting "that, by the said act, all persons who were indebted for quit rents due within the Northern Neck, were permitted to retain the same in their hands until the further directions of the Assembly, and that it was unjust that the executors of the late proprietor of the Northern Neck should be any longer prevented from receiving what was due to the said proprietor at the time of his death, it was enacted that so much of the said act as permitted the persons indebted as aforesaid, to retain in their hands the sums due at the time of the death of the said proprietor, should be, and the same was thereby, repealed."

And by another act, passed at a session begun the 17th day of October, 1785, entitled "An act for safe keeping the land papers of the Northern Neck in the Register's office," after reciting, "that since the death of the late proprietor of the Northern Neck, the Right Honorable Thomas Lord Fairfax, no mode had been adopted to enable those who had, before his death, made entries for waste and unappropriated lands in his office, nor to enable those who, since his death, had made entries within the said district, according to an act of Assembly, entitled 'An act concern-

ing surveyors,' to obtain titles for the same," it was enacted that, "where any surveys had been theretofore made, or thereafter should be made, under entries made in the life of the said proprietor, or under entries made with the surveyor of any county, under the act of Assembly aforesaid, and which had been returned to the said proprietary office, should thereafter be returned to the register's office, the register should make out grants therefor, to bear test under the hand of the Governor, and the seal of the Commonwealth, in the same manner as was by law directed in cases of other unappropriated lands; and the surveyors with whom such entries had been made, were thereby directed and empowered to proceed to survey and record the same, and to make return of such surveys to the Register's office, in the same manner and within the same time as was, or should be directed, in cases of warrants issued for other unappropriated lands within this Commonwealth, and therefor grants should issue in the manner therein before directed." And it was further enacted, that "from and after the passing of the aforesaid act, the unappropriated lands within the said District should be subject to the same regulation, and granted in the same manner, and all caveats should be proceeded upon, tried and determined, as was by law directed in cases of other unappropriated lands belonging to the said Commonwealth." And it was further enacted "that the landholders within the said District of the Northern Neck, should be forever thereafter exonerated and discharged from composition and quit rents, any law, usage, or custom, to the contrary notwithstanding."

It has been represented to us, that, in the year 1786, a memorial was presented to the Assembly, on behalf of the claimant, (Robert Lord Fairfax,) who, together with all the heirs in remainder, (except Thomas Martin,) we find to be loyal subjects of His Majesty, who resided in Great Britain during the troubles, by his agents in Virginia, praying to be relieved from the effects of the acts before recited, and to be restored to the possession of the quit rents within the said Northern Neck, to which he was entitled under the will of his mother, as before mentioned, which application was unsuccessful; but no copy of the said memorial, nor of the minutes of the said Assembly relative thereto, having been produced to us, we are unable to state the particulars of the said application, or the grounds upon which the same was rejected.

On a full consideration of the above acts, it does not appear to us that there is anything contained in them (excepting the act of 1785) which operates as a forfeiture of the estate of Lord Fairfax, or those in remainder after his decease: for, although the first act, of October, 1782, directs the payment of all quit rents that should thereafter become due into the Treasury, yet we cannot infer the object of that direction to have been any other than the same which is expressed in that act, as to the prior quit rents, which are thereby directed to remain sequestered in the hands of the landholders in the Northern Neck, viz: there to

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remain until the rights of descent to the said territory should be ascertained, and the General Assembly should make final provision thereon. But the act of 1785 having placed the said district under the same regulations with all the other lands within the said State, and having, also, totally abolished the quit rents due therein, we are of opinion that Lord Fairfax, and those in remainder after his decease, are thereby entirely divested of their estate, and interest therein, and have lost every prospect of recovering the same.

At the same time we cannot help remarking, that this act appears to us to militate strongly against the spirit and meaning of the sixth article of the Treaty of Peace, which provides that there shall be no future confiscations made, or any prosecution commenced against any person or persons, for, or by reason of, the part which he or they have taken in the (then) present war, and that no person shall on that account suffer any future loss or damage, either in his person, liberty, or property: for, although it is not by the terms thereof, an act of confiscation, yet it has all the effect and operation of an express act of forfeitures; and although the grounds and motives of passing it are not expressed in the act itself, we cannot but conclude, that if the parties interested had not been considered as British subjects and aliens, either the landholders would not have been exonerated from the payment of quit rents, or that some compensation would have been made in lieu of the same.

It does not appear to us that the act of 1779, entitled an act concerning escheats and forfeitures from British subjects, which is the only act of the State of Virginia which operates as a general act of forfeitures, has any relation to the present case, the same having been passed a considerable time previous to the death of the late Thomas Lord Fairfax, and none of the directions therein contained for ascertaining who were objects of the same act, having been pursued with respect to the present claimant, or granting that they had, it could only operate as a forfeiture of the individual interest of Lord Fairfax for the term of his life; the estate of those in remainder being in that case, as we conceive, protected and preserved by the fifth article of the Treaty of Peace, by which it is agreed "that all persons who have any interest in confiscated lands, either by debts, marriage settlements, or otherwise, shall meet with no lawful impediment in the prosecution of their just rights." We submit, therefore, whether this be not, under all its circumstances, of the cases which call for the interposition of Government, to assist the parties in obtaining a restitution of their just rights, which are thus guaranteed and protected by the Treaty.

We have had some difficulty in ascertaining the value of the estate in question, for the several books and papers relative to the land office having been, as we are informed, and appears by the act of Assembly of 1785, taken possession of by the State, it has not been in the power of Lord Fairfax to lay before us such clear and decisive evidence of the amount of the annual quit rents as

was desirable; we have, therefore, been obliged to estimate from the parole evidence of several respectable witnesses as to the general repute of the country of their amount, previous to the war, and the positive testimony of his lordship of their produce in the year 1768, when he was in Virginia, and had access to the books wherein the accounts thereof were kept; and, on a general consideration of all its circumstances, we are of opinion it will be just to value the said estate at £60,000; and, in order that Parliament may have every information to guide its determination, with regard to the compensation it may think fit to make for the loss of this property, if that should be its ultimate resolution, we have calculated the value of Lord Fairfax's life in the above sum, which we find to be £13,758.

In the above sum we have not, for the reasons stated in our first general report, taken into account the arrears of quit rents, which are stated by Lord Fairfax to amount to £28,000, nor of the waste or unappropriated lands, no proof having been laid before us of their extent or value, nor any claim made for the loss thereof.

With respect to the private and unappropriated estates of the late Thomas Lord Fairfax, no evidence has been laid before us to show that the present Robert Lord Fairfax has any title thereto, or interest therein, neither does it appear that the same has been confiscated or forfeited; on the contrary the inference is, that no forfeiture has taken place: for the act of 1783, having declared that it was unjust that the executors of the late proprietor of the Northern Neck should be any longer prevented from receiving what was due to the said proprietor at the time of his death, and having repealed the provisions of the former act, whereby the quit rents were ordered to remain sequestered in the hands of the landholders, it is to be presumed that the residue of his private estate has been equally protected and preserved for the benefit of those entitled thereto.

For these reasons, and because no express claim has been put in for the loss of the private estates of the late Lord Fairfax, we have not thought it material to go into a particular inquiry respecting the same.

*Copy of a letter written by John Wilmot, Esq., to George Rose, Esq.*

Mr. Wilmot presents his compliments to Mr. Rose, and acquaints him that Lord Fairfax's property in America claims at £60,000, in which Lord Fairfax had only a life estate. The Commissioners made a special report on this case, being under very particular circumstances. The result however was, that Mr. Pitt recommended to Parliament to pay Lord Fairfax the value of the life estate, which, after deducting what his lordship had already received from Government, amounted to the sum of £11,868.

No sum was recommended by Mr. Pitt to be granted to those who have the reversary interest after Lord Fairfax's death.

JANUARY 24, 1792.



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To the Right Honorable William Lord Grenville, His Majesty's Principal Secretary of State for the Foreign Department, &c., &c.

The memorial of divers American loyalists in behalf of themselves and others, residing in Great Britain and elsewhere, in His Majesty's dominions, most respectfully sheweth:

That your memorialists, at the time of their banishment and confiscation of their estates, had large sums of money justly due to them, by some of the richest inhabitants of the American States, on bond, note, and other securities, which were included in your memorialists' claims, delivered in to the Commissioners of an "Act for appointing Commissioners to inquire into the losses and services of all such persons who have suffered in their rights, properties and professions, during the late unhappy dissensions in America, in consequence of their loyalty to His Majesty, and attachment to the British Government." But, on the discussion of those claims, your memorialists were informed by the said Commissioners, that they could not take cognizance of such debts, as provision was made for the recovery thereof by the definitive Treaty of Peace between Great Britain and the American States.

That your memorialists have since exerted every endeavor to recover the moneys so due to them from their debtors, but were restrained by laws, passed from time to time in the American States, regardless of the Treaty; and where your memorialists' debts had been confiscated by laws of any of the States, on suits instituted by them for the recovery thereof, it has been adjudged by the Federal Courts of the Union, "that those debts were extinguished as to your memorialists, and vested in the States that passed the confiscatory law; your "memorialists not being real British subjects, but American British subjects, and therefore not entitled to the benefit of the Treaty of Peace;" which adjudication equally precludes your memorialists from relief where their moneys had been paid for their use by their debtors into the public Treasuries, pursuant to laws of any of the States; and also where their debtors had discharged the moneys owing by them in a depreciated paper currency, at the rate of six-pence or less in the pound, under the sanction of arbitrary and unjust tender laws, passed from time to time in the American States during the war; although it is expressly stipulated by the fourth article of the Treaty of Peace, "that creditors on either side shall meet with no lawful impediment to the recovery of the full value in sterling money of all *bona fide* debts heretofore contracted;" which article of the Treaty mentioning creditors on either side generally, without the least allusion to creditors of any particular description, the words "shall meet with no lawful impediment to the recovery of the full value in sterling money of all *bona fide* debts heretofore contracted, must necessarily refer to laws and adjudications that would defeat the object as to any creditor who had adhered to Great Britain, and made themselves a party in the controversy; nor is the dis-

inction between real British subjects and American British subjects reconcileable with the intent of the Treaty, as it would promote a spirit of resentment and persecution, which ought to subside on a return of the blessings of peace. Besides, this distinction is evidently repugnant to reason; because it admits a right to recover debts in the British merchants who took no active part in the contest; and disallows that right to your memorialists, who manifested their allegiance by submitting to the attainder of their persons, and confiscation of their estates, and all the calamities of war, which are the strongest proofs of national attachment to natural justice; because it enables debtors to evade the just demands of their creditors, in violation of the most solemn contracts and obligations, which have ever been held sacred among all civilized societies.

That your memorialists, being informed that the British merchants have been called on by His Majesty's Ministers for some statement of their demands against the subjects of the American States, in the negotiation now pending between their Plenipotentiary and the British Court, your memorialists think it a duty they owe to themselves and to the Government, to lay this representation of their hard case before your lordship, trusting their rights will meet with due attention in that negotiation; and that if they should not ultimately obtain satisfaction of their just demands in America, according to the Treaty of Peace, to which they have been referred by the Commissioners of the act of Parliament above-mentioned, your memorialists' claim on the national justice for compensation and relief, pledged, to them by that act, will merit your lordship's countenance and protection.

In the hopes whereof your memorialists in gratitude will pray, &c., &c.

ROBERT WILLIAMS,  
J. PARKER,  
EDMUND HEAD,  
JOHN DAVIS,  
W. P. TONGE,  
R. W. POWELL,  
JOHN STOPTON,  
ROBERT GILMOUR,  
WILLIAM BROWN,  
S. H. JENKINS,  
LEWIS JOHNSTONE,

*By his attorney, J. Irvine.*

CHARLES COOKE,  
ROBERT COOKE,  
JAMES WILSON,  
*for Cumberland Wilson.*

THOMAS HARPER,  
THOMAS YORKE,  
ROBERT COOPER,

*As Executor to H. Perannean, dec'd.*

JOHN RENNIE,  
JOSIAH TATHNALE,  
*for John Hamilton & Co.*  
CHARLES ATKINS.

LONDON, October 9, 1794.

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PHILADELPHIA, Dec. 3, 1794.

SIR: As I cannot get a confidential person going to Liverpool in the ship which will carry this letter, to take charge of some remarks which will be submitted to your consideration, I prefer to send them by two other ships going to-morrow or next day. In them a passenger will be found who will hasten to you with fidelity.

You must have received, almost by this time, my letter, which requests you not to stipulate against our citizens in case of a war between us and Great Britain, taking privateering commissions against that country. I barely repeat it now.

The remarks above alluded to relate to the Treaty on foot. Although, in the combining of your and Lord Grenville's projects, things may be so changed as that observations directed to each, may be unavailing and inapplicable, yet I must, in the hurry of the moment, take the liberty of suggesting that I am extremely afraid that the reasoning about the negroes will not be satisfactory. Indeed, I own that I cannot myself yield to its force. But, if you omit mentioning them at all, will not some quarters of the Union suppose themselves neglected?

If the British are to retain the posts until 1796, and have free access to the Indians within our limits in the meantime, have we not reason to apprehend that they will contrive to perpetuate their ascendancy over them?

The departure of the vessel precludes more at present. I will, therefore, only acknowledge your duplicates Nos. 15 and 16, and your letters of the 18th of September and 2d of October, being Nos. 17 and 18.

The arrival of Mr. Bayard, and a letter from me preceding his appointment, will explain to you that it is the intention of the Government that the costs and damages attending all vessels and cargoes, within the catalogue of spoiliations, should be defrayed by the United States; and that Mr. King's case, mentioned in my letter of August 15, is not regarded as discriminated from the others; but that all are to receive equal patronage in this particular. It will be however, of course, understood, that if, in this and the other cases, you can obtain redress without a process through the Courts, it is the wish of Government that the shortest method be pursued.

I have the honor to be, sir, with great respect, your most obedient servant,

EDM. RANDOLPH.

*Mr. Jay to Mr. Randolph—No. 26.*

LONDON, December 10, 1794.

SIR: I have been favored with your letters of the 11th and 20th October last, with the papers mentioned in them. As the Treaty concluded on the 19th of last month was sent by the packet, and a duplicate was committed to the care of Mr. Blaney, who sailed in a vessel for Virginia, commanded by Captain Vickary, I flatter myself it will arrive before you receive this letter.

It gives me pleasure to acknowledge the attention and punctuality manifested in your letters, and your prudence in publishing only in the way you mention, advices respecting the negotiation.

Yesterday I received a letter from Mr. Bayard, informing me that he was on the road from Fal-mouth to this place, and giving me a hint of his appointment.

Being very solicitous to return home, I purpose to embark in one of the Spring vessels for New York or Philadelphia. The Treaty may possibly not arrive so soon as that the ratification will reach this place before my departure, especially as not only the packet, but also Mr. Blaney, were detained a considerable time by contrary winds. I beg leave, therefore, to submit to the President's consideration the expediency of instructing Mr. Pinckney to make the exchange in case of my absence, and of authorizing him to execute such instructions to me as may be sent with the ratification.

I wish I was now at Philadelphia, not only because I should then be in my own country, but because I could give you interesting information, which cannot be so advantageously communicated in writing as in conversation. I will make one remark. This Treaty may be used to open the Mississippi and rivers running through Florida.

With sentiments of respect and esteem, I have the honor to be, sir, your most obedient and humble servant,

JOHN JAY.

The Hon. EDM. RANDOLPH, Esq.,

*Secretary of State, &c.*

P. S. You will receive herewith enclosed, a copy of Lord Grenville's full powers. Duplicates of Nos. 23, 24, and 25, are already on board the ship which will bear this.

*Mr. Randolph to Mr. Jay.*

PHILADELPHIA, Dec. 15, 1794.

SIR: I suggested to you, in my last letter, on the 3d instant, the reason why much scope of observation could not be indulged by the opportunity which then occurred; on your letter of September 13, 1794. Having a full assurance now that the danger of the sea can alone prevent this despatch from reaching you in safety, I shall take the liberty, under the correction of the President, to run through, in a summary way, some parts of your interesting communication.

At the threshold, however, this important difficulty awaits us. Upon the fitness of your own or Lord Grenville's propositions, separately viewed, we might perhaps decide with satisfaction to ourselves. But, until the two projects shall be moulded into one; until we shall, at least, see how much will be yielded on either side, our remarks may not only wander from the true points, which may be best entitled to examination, but may also mislead you, if they be not cautiously applied to a state of things which is not precisely the same with that which gave rise to them. You will be pleased, therefore, to accept them as testimonies of our anxiety that your mission may

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terminate happily to our country and honorable to yourself; hoping that, although they should arrive after some conclusion with the British Ministry, they will operate so far as the then position of affairs will permit.

As a mere point of honor, it would certainly have been immaterial to settle what act, on either side, constituted the first violation of the Treaty of Peace. Nor can we, at this distance, judge as well as yourself to what degree the whole of our claims, pretensions, and complaints, may be affected by relinquishing, or failing to fix on the British Government the first infraction. But really, sir, the force of Lord Grenville's reasoning appears to fall very short of its object.

That a property is acquired in moveables as soon as they come within the power of the enemy, is acknowledged. But it will not be denied that rights even in moveables, acquired by war, may, by the Treaty of Peace, be renounced. In this instance there was great reason for such a renunciation. Negroes were not, like moveables in general, difficult to be distinguished. They carried an infallible mark. British debts were stipulated to be paid, and the States in which the mass of them lay, depended for their payment principally on the culture of their soil, and for the culture of their soil, on this species of labor. As property, the British Government could not have been tenacious of negroes; and it may therefore be supposed, that in this view, they were so indifferent as to be the more easily given up.

If the stipulation as to negroes did not mean an alteration in the actual state of property, and imported only an engagement not to cause any destruction, or carry away any negroes or other American property, why was it made? The cessation of war implied the cessation of further depredations; the renewal of depredation would have been the renewal of war. The words of Treaties, if they can be construed in an operative sense, ought not to be turned to signify merely what would have existed without them. It was a thing of course that orders should be given by the British Government against plundering on the evacuation; or, if they should not be given by Government, it became incumbent upon the commander, in behalf of the British army in America, to issue them under his own authority.

The essence of Lord Grenville's argument seems to consist in a refinement of interpretation which he gives to the words, "other property of the American inhabitants," as if they confined the word "negroes" to those negroes who should be thereafter captured from the Americans by the British arms, and excluded such as were then denominated, by the rights of war, British property. The use of the term "negroes," by itself, proves that the inquiry was simply to be, whether the persons who were not to be carried away came within the description of negroes generally; and it is as fair to conclude, from the words "other property of the American inhabitants," that the opinion of the negotiators was, that negroes within the British power were made thereby American property, as the reverse. The fact,

too, is, that the original proprietors of the negroes never lost entirely the hope of recovering them, still called them theirs, would have reclaimed them upon the principles of postliminy, if they had been retaken by the army of America or its ally, and thus even the Plenipotentiaries themselves might, without any impropriety, have talked of the negroes in British possession as the negroes of the American inhabitants. These ideas are supported by other parts of the 7th article. Why is the "carrying away" only mentioned, if negroes which might be thereafter seized were chiefly contemplated? Is it not reasonable to believe that, with this impression, it would have been said that negroes shall not be captured and carried away? If a critical exposition must be resorted to, "carrying away" implies that the thing to be carried away is already in possession. Another part of the stipulation is, that the American artillery that may be in the fortifications, shall be left therein. That is, not artillery made in America, but artillery the property of America, or in other words, of the United States. Now, this artillery was surely the property of the British at the moment of capture, and yet no pretence, as far as I can learn, was hatched up to carry away our cannon.

For the interpretation of Treaties, as well as in all moral reasoning, general rules are prescribed; but your own experience must have satisfied you that these rules can be seldom applied with mathematical precision. We have an example of this in Lord Grenville sheltering himself from the true construction of the article of the Treaty, by branding it with the epithet "odious." What is more customary than for nations to surrender rights? What more common than for them to surrender, on a peace, rights acquired purely and solely through a war? The construction is not odious, because the British Government hate slavery. No, sir, they established it in the United States while colonies; they continued the importation of slaves against the will of most of the States; it exists by their authority in many of their foreign dominions. The odium then of the business, must be in depriving the slaves of the liberty granted to them; that is, in first giving and then taking away. In answer to this I observe, that the construction is not so doubtful as to let in any remarks upon odium: for vague ideas of this kind are inadmissible, except in truly doubtful cases. There might, perhaps, have been some countenance to this plea, if we should insist that slaves originally belonging to the British, and afterwards manumitted by them, were now demanded by us to return to their former condition. But those in question belonged to our citizens: the war only presented the chance of liberation. They were covered in their flight from their masters by the operation of war. They must have been conscious (and such is the Law of Nations) that, if they had been regained by their former proprietors in the course of the war, they would have reverted to the condition of slaves; and that what the war gave, might by a peace be taken away.

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You must be too sensible of the anxiety of many parts of the United States upon this subject to pass it over unnoticed. Permit me, therefore, to beg your attention to the foregoing ideas, since I have it greatly at heart that your negotiation may not be encumbered by any objection which may be anticipated.

It was at first hoped that, as you had proposed June, 1795, for the epoch of surrendering the posts, and have not commented upon the proposition of Lord Grenville for June, 1796, there might have been a mistake in copying what he wrote. But the duplicate of your letter of September 13 confirms the truth of 1796. In a past letter you have been apprised of the unpleasantness which will accompany such a result. Further reflection has not diminished, but on the contrary, has increased the repugnance of the President to this extension of the time. There may be a danger of our losing the moment when we may be the most impressive. If we have been fortunate enough at present to catch the wheel of political events in its rapid revolutions, before June, 1796, the face of things may be so much changed as to substitute the spirit which governed Great Britain in her past injustice towards us, in the place of that moderation which we experience in the hour of her depression. Every artifice for riveting an ascendancy over the Indians, and counteracting our competition for the fur trade, will have had its fullest scope. In short, the interval will be employed in rendering the transference of the British fort from one side of the river to the other, as little operative as possible on the minds of the Indians, by gradually managing and persuading them to believe that the new position is more convenient to them, and that the removal was the effect of choice, and by an infinity of other pretences. And truly, sir, it cannot be deemed severe to insist upon June, 1795. For what purpose, sincere in all its aspects, is a twelvemonth more wanted? The distance for transporting the appendages of the garrison within the British territory is trifling, and becomes more so by the facility of water carriage. The settlers under British auspices will be protected. The season will be favorable. The President is therefore very much fixed in the opinion, that the arrangements for June, 1796, will be injurious to the United States. We are fully sensible that something was to be yielded for the accommodation of the British garrison, so as not to precipitate their surrender of the places unnecessarily; but no title to indulgence seems to go beyond June, 1795; and the President instructs me to add that, as long as the British retain Detroit, and other posts within our limits, he is convinced that we shall never have perfect tranquillity with the Indians. The free ingress and egress stipulated for British subjects and the Indians, will, it is feared, strike deep into our Indian trade; nor can we be sure that the reciprocity claimed by you will compensate the inconvenience. Nor yet can it be calculated how much our revenue may be impoverished, if goods may be imported through Canada duty free.

I have the pleasure to inform you that your reasoning and conduct respecting the St. Croix and the Mississippi appear to be very judicious, and the form in which those subjects have been placed by you, according to your different letters, is approved by the President.

The correspondence between Mr. Jefferson and Mr. Hammond, relative to the captures of British vessels by French cruisers, fitted out of our ports, or manned by our citizens, places the subject of compensation upon the ground which is the most acceptable to the President.

Ought any settlers or traders within the precincts of any British garrison, within the United States, to be protected in their landed property there, unless it lies strictly within the just limits of a garrison, and their title originated before the peace? Perhaps nothing more is meant; my suggestion is for greater certainty only.

Neutral commerce, if it can be so settled, had better be freed, as much as possible, from contraband. But it is peculiarly important that provisions should be so.

I am apprehensive that, to bind the British King to compensation only where our property has been illegally captured and condemned, under color of his authority and commission, or where apparent full justice and compensation cannot be obtained, and actually had, by judicial proceedings, will not reach the mischief; and that there is no effectual mode for repairing it, but by granting compensation upon the broad ground of the principle of the instructions of November 6, 1793, being unsound; that is, by providing that they violated our rights in authorizing condemnations; or it will amount to the same thing if it be said that it was not the intention of those instructions that they should form a law for condemnation. In either case, compensation will follow.

My former letters have communicated the desire of the President that, in case we should have a war with Great Britain, we should not be excluded from privateering commissions.

You, sir, who have before you the whole of this affair, from its first breaking to the British Ministry, know best how to balance reciprocal concessions, which shall be satisfactory to the people of the United States. But the difficulty of accomplishing such a work is very apparent at all times; and the delicacy of undertaking to pay the damages sustained by British creditors by lawful impediments, in consideration of advantages under a different head, is, at this time, exceedingly great.

The question as to the first violation of the Treaty assumes an important shape, when your proposition for the United States to compensate the consequences of impeding the recovery of British debts is examined; because, if the British were the aggressors as to the negroes, we had a right to retaliate. But, throwing this out of sight, since it appears that you and Lord Grenville could not begin to agree until this discussion was dismissed, permit me to add, that the litigation will be extremely involved when it is attempted to ascertain the various kinds of losses arising from

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the deaths of the debtors, the loss of evidence, &c. The sum will not be inconsiderable. Many estates have been incapacitated to pay British debts by being deprived of their negroes by British arms. One-half, at least, of the United States would be very reluctant in assuming the payment of these sums, and, perhaps, would not think the *douceur*, in trading to the West Indies and other places, as sufficient. However, if it is necessary, in order to accomplish the negotiation amicably, that this species of compensation should be made, ought not the United States to be considered as assignee of the judgment entered up against the debtor, that they may reimburse themselves as far as they can?

You have doubtless considered how far we may be compelled to extend to the nations with whom we have Treaties of Commerce, the same privileges which are granted to Great Britain, and what the effect may be upon our revenue and commercial regulations.

Not only in the foregoing observations, but also in those which follow, and are more particularly directed to the commercial projet of Lord Grenville, have I been guided by these two ideas: 1, that, as much conference had taken place between yourself and Lord Grenville, at an early period after your arrival, and before any shape was given to the business by formal propositions, many points may have received, before that time, by mutual understanding, a form which candor or delicacy may create a difficulty in attempting to change; and 2, that, from the latitude of your instructions, you were left at such full liberty as to render it improper to seem to get rid of some share of responsibility, by passing too minute strictures on what has been done. I flatter myself that the style of our intercourse has satisfied you that nothing can be further from my mind than any measure which, in a similar situation, I should not wish to be pursued in my own case; and you may be assured that, if it was not for the hope that the course of this transaction, and my letter of the 12th ultimo, may, perhaps, have kept it unclosed, I would not trouble you with any remarks.

The greater part of the first article, in Lord Grenville's commercial projet, seems to be little more than that courtesy, and liberty of trade, and access to our ports, which is usually granted by one friendly nation to another. But, if its meaning extends further, will not the provision which subjects what respects this article to the general laws and statutes of the two countries, respectively, leave the whole of this matter to the discretion of the two countries, and thereby render the stipulation totally unavailing, at least when the Legislature of either chooses to make it so?

The second article is customary, and Lord Grenville's correction of it is, perhaps, more suitable to the temper of the United States, which would steer as clear as possible of giving the least handle to a foreign Government to seduce our citizens by the allurements of office. Is it intended that there should be no delineation of Consular powers, in any stage of the negotiation? The

customs of most nations differ on this head; and, for ourselves, it can hardly be said that we have any, except those which are defined in the Consular Convention with France.

In article 3d, the light-house duties of the particular kind being relinquished, it is an important consideration that, as the distinctions which now exist between foreign and our own vessels are really of moment to our trade, our merchants will see them relinquished with reluctance, unless there be some very obvious equivalent; and if the stipulation extends to the removal of the distinction in the duties on goods brought to the United States in British bottoms, their reluctance will be so much the stronger.

The fifth article wants reciprocity. The British system is established upon the most abundant experience and examination of all the relations of British commerce, and contains *now* numerous prohibitions. Our system, which time will mature and improve, contains none. By fixing this state of things, we should renounce an important right, of the defensive kind at least, and place ourselves on an equal footing. At any rate, it gives a claim to some very considerable equivalent.

I should have probably conjectured that this equivalent was supposed to be found in the sixth article, which opens to us the British West Indies to a certain degree, had it not been for your observation, that "you had strenuously urged the justice of compensation for the detention of the posts, and that you consider the privilege of trading to the West Indies as providing for claims of that kind." We are, therefore, led to weigh one part of this article against the other; to compare this article with the arrangements of our trade to British Europe, in the preceding articles, and to ascertain where the balance of advantage lies. Upon this head three remarks more particularly arise: 1st. The duration of the privilege to trade to the West Indies not being co-extensive with the other parts of the Treaty, the short term of its existence, as proposed to be granted, renders it of inconsiderable value. 2d. I confess that I would not positively say that the proviso which prohibits vessels of the United States from carrying "West India productions or manufactures in American vessels" from the British islands, or the United States, to any part of the world, except the United States, is to be interpreted so literally as to extend to the West India productions or manufactures, or the West India possessions of other countries than the dominions of Great Britain. But there is a doubt of some magnitude whether this proviso may not be so interpreted. If it is to be so interpreted, we should renounce a valuable branch of trade, now enjoyed, and probably much more than would be gained. You will, therefore, I am sure, see the propriety of removing the doubt and preventing the mischief. 3d. But, even if the proviso is not to be construed in this harsh sense, still it would imply, in its mildest signification, that, after we have brought into the United States the productions or manufactures of the British West Indies, and have, by our own labor, improved them, or converted them into another form, we shall not



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carry them, except in sea stores, or rum made in the United States, to any foreign dominion whatsoever, although it may not have the smallest dependency on Great Britain. This is unreasonable in every view. The restriction applies even to those West India productions and manufactures which British vessels themselves bring hither, because they find it profitable to do so. It dictates too much to the United States in what manner a certain portion of our foreign export trade is to be conducted. And why is Lord Grenville desirous that this should be done? Ought not the British Government to be contented with the advantage which they will possess by being able to carry the productions and manufactures of their West Indies directly to foreign ports, while we should be first obliged to land them in the United States? Besides, we shall expose ourselves, by such a stipulation with Great Britain, to be urged upon the same points by every nation which is entitled to enjoy the privileges of the most favored nation.

The duration of twelve years, given by the seventh article to the Treaty, as it respects the trade with Europe, and of only two years, as it respects the trade with the West Indies, will probably be very unacceptable. It will be the more so, as the commercial project of Lord Grenville does not even secure the *status quo* with the European dominions of Great Britain; that is, it does not secure the particular privileges and exemptions which we now enjoy by proclamation, compared with other foreign nations.

We might, perhaps, be better able to decide what is proper to be done, if we knew how far the whole of one project might be made, in the purpose of the British Ministry, the condition for the whole of the other; how far one part of one project may be the condition of another part of the other; or how far any particular part of either project may be the condition of the whole of that project. It is a great satisfaction, however, to believe that most of these remarks have occurred to yourself, and that the interest of the United States is well reposed in your discernment, talents, and zeal.

I have the honor to be, with the greatest respect, sir, your most obedient servant,

EDM. RANDOLPH.

*Mr Jay to Mr. Randolph—No. 27.*

LONDON, January 7, 1795.

SIR: I have been favored with yours of the 29th October, 3d of November, and 12th of November, with the papers mentioned in them.

Considering the number of capture cases which Mr. Bayard would have to manage, and apprehending that it might cost much time and trouble to prevail on private persons to become sureties for costs, it appeared to me advisable to propose to Lord Grenville a stipulation on that subject.

On the 17th of last month, I had a conference with his lordship. He expressed much satisfaction with Mr. Bayard's appointment. He considered it as a conciliatory measure, and would, with

pleasure, do whatever might depend upon him to facilitate the business. We both saw that difficulties would occur in forming such a stipulation. He promised to consider it, and, after consulting the Advocate General, to converse with me again upon the subject.

In the meantime, Colonel Trumbull set about making an accurate list of the papers in my possession, and which Mr. Bayard was to receive from me. That no time might be lost, several of the cases were delivered to him within a few days after his arrival.

On the 25th December, I received the following letter from Mr. Bird, viz:

LONDON, 25th December, 1794.

DEAR SIR: The offer I made two days ago to you and Mr. Pinckney was under the impression of the moment, and to give what little assistance might be in my power to remove any difficulty in the arrangements to be made for the adjustment of the appeals from our Courts of Vice Admiralty.

On hearing that the security of the United States was to be offered as bail in these appeals, it struck me that, although no possible difficulty could arise as to the validity of the security, an objection might be made to the bail being given by a Government, not liable to be sued, instead of the usual mode of the bail of a person, resident in London, who could be sued. Under this impression, I immediately made the offer that, in such case, where it would be wanted, I and my partners could give the bail, taking the counter security of the United States.

Having since made inquiries in the Commons, I find it likely that the objection would be made there on the ground of informality and deviation from the practice of the Court, unless it was set aside by an Order in Council.

Under these circumstances, having consulted my partners, and obtained their full concurrence, I beg leave to repeat the offer, that in all such cases where the security of the United States was intended to be offered, which I suppose to be in those appeals where the parties in America have not the means of giving security by their regular correspondents, and even in these cases, if it be the intention of the United States to give their security in them, my partners and I are ready to give the requisite bail, taking as our counter security the bail of the United States, in such manner and form as you are empowered to give it, and as shall by our counsel be deemed sufficient to secure us, and provide for the reimbursement of such sums as our bail may make us liable to.

This offer is made from an anxious desire to serve both countries, by assisting in paving the way for your obtaining full justice to your citizens for the real injuries they have suffered, particularly under the hasty order of November 6, which, from the first moment of knowing it, I have never ceased to condemn, as equally unjust and impolitic. As nothing but proper compensation for the injuries your citizens have suffered, under that and similar measures, can restore that

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cordial friendship which it has ever been my wish to promote between the two countries, I trust that, by this offer of my feeble services to America, I cannot give a stronger proof of my zealous attachment to the real interests of my own country.

I have the honor to be, &c.,

H. M. BIRD.

To the Hon. JOHN JAY, &c.

To this letter I returned the following answer :

LONDON, *December 26, 1794.*

DEAR SIR : I have been favored with your letter of yesterday, and am much obliged by the offer contained in it, which I think it expedient for Mr. Bayard to accept; I will prepare an instrument to provide for your being indemnified by the United States, which, when finished, I will submit to your consideration.

A copy of your letter shall be transmitted to the Secretary of State at Philadelphia, and I am persuaded that the friendly conduct of you and your partners, on this occasion, will make correspondent impressions on the Government and people of the United States.

I am, dear sir, your most obedient and humble servant,

JOHN JAY.

To H. M. BIRD, Esq.

In consequence of Mr. Bird's offer, I wrote the following letter to Lord Grenville, viz :

*To the Right Honorable Lord Grenville, &c.*

ROYAL HOTEL, Pall Mall,  
*December 26, 1794.*

MY LORD : I have received a letter from Mr. H. M. Bird, of this city, containing an offer to become surety, together with his partners, for costs in the prosecution of claims and appeals in the capture cases, on engagements to be indemnified by the United States.

The difficulties which attend the stipulation on this subject, which I had the honor to propose to your lordship, induce me to think it advisable to accept this offer, and thereby relieve your lordship from further trouble on that head. I shall endeavor to make the necessary arrangements with Mr. Bird and his partners, and will inform your lordship of the result.

I have the honor to be, with great respect and esteem, your lordship's, &c.,

JOHN JAY.

To this letter I received the following answer, viz :

DOVER STREET, *December 26, 1794.*

DEAR SIR : I was about to write to you on the subject of the security, when I was prevented by your obliging letter. A slight indisposition, which has confined me to my room for these three last days, had hindered my seeing the King's Advocate, as I had proposed. I had, however, taken some steps to bring the subject under his consideration.

The difficulties which seemed likely to arise, are completely done away by the mode which you have adopted ; and I cannot omit this opportunity of again expressing to you the great gratification which we have all derived from so judicious and conciliatory a step as that taken by the President of the United States.

GRENVILLE.

To the Hon. JOHN JAY, &c.

After having prepared the papers which, in my judgment were proper for Mr. Bayard and myself to execute, in order to indemnify Mr. Bird, I sent them to him for his consideration. On the 3d instant, Mr. Bird called upon me : I explained to him exactly, in the presence of Mr. Pinckney, the precise state of the business ; I observed to him that the Congress had not as yet passed any act for appropriating money to these purposes ; but I had no doubt but that the arrangements contemplated, and the measures adopted by the President, relative to these cases, would meet with their approbation. He was desirous that the papers should specify the manner in which he should be reimbursed any sums which he might be obliged to pay. I observed that it was not in my power to make any provision of that kind, without further instructions. We then completed the draughts of the papers. He said he would consult his partners, and inform me without delay of their joint determination. In the evening I received the following letter from him, viz :

JEFFRIES SQUARE, *Saturday, 3 o'clock.*

DEAR SIR : My partners agreeing with me that we run no risk in trusting to the honor and integrity of the Executive and Legislature of the United States, to perfect what Mr. Bayard has been authorized to engage for, you may complete the writings, and I will call on you on Tuesday at twelve o'clock.

I am, &c.,

H. M. BIRD.

Hon. JOHN JAY, &c.

*The following are copies of the papers above mentioned, viz :*

Whereas the Secretary of State of the United States of America hath officially informed me that the President of the said United States has been pleased to appoint you agent to manage claims and appeals in cases of irregular or illegal captures or condemnations of American vessels, or other property, under color of authority or commissions from His Britannic Majesty ; and whereas it will be necessary to the prosecution of the said claims and appeals that the usual security for costs in each cause be given ; and whereas Henry Martins Bird, Benjamin Savage, and Robert Bird, of the city of London, merchants, trading under the firm of Bird, Savage, & Bird, have offered to become securities, jointly or separately, as may be required, in the usual sums and form, for the payment of such costs as may be legally decreed against any such claimants or appellants, on the faith and engagement

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of the said United States to indemnify them for any losses or damages which they may sustain thereby; and whereas I am empowered and instructed to authorize you to execute bonds, and make engagements (under my direction) to effectuate the said purposes: Now, therefore, I do hereby authorize you, in your capacity of agent, aforesaid, to pledge the faith of the said United States to the said Bird, Savage, & Bird, that the said United States shall and will well and truly indemnify, and keep harmless, the said Bird, Savage, & Bird, and each and every of them, and their respective heirs, executors, and administrators, from and against all damages, costs, and charges, which they shall sustain or necessarily be put to, by reason of their becoming sureties as aforesaid, and will well and truly repay to them, their heirs, executors, or administrators, whatever sums of money they or either of them shall be obliged to pay on that account, together with interest for the same.

Given under my hand and seal, the fifth day of January, in the year one thousand seven hundred and ninety-five.

JOHN JAY.

Sealed and delivered in the presence of  
JNO. TRUMBULL,  
P. A. JAY.

To SAMUEL BAYARD, Esq.

*Know all men by these presents*, That, whereas John Jay, Envoy Extraordinary from the United States of America to His Britannic Majesty, hath made and delivered to me an instrument in writing, under his hand and seal, in the words following, viz:

To SAMUEL BAYARD, Esq.:

Whereas the Secretary of State of the United States of America hath officially informed me that the President of the said United States has been pleased to appoint you agent to manage claims and appeals in cases of irregular or illegal captures or condemnations of American vessels, or other property, under color of authority or commissions from His Britannic Majesty; and whereas it will be necessary to the prosecution of the said claims and appeals that the usual security for costs in each cause be given; and whereas Henry Martins Bird, Benjamin Savage, and Robert Bird, of the city of London, merchants, trading under the firm of Bird, Savage, & Bird, have offered to become sureties, jointly or separately, as may be required, in the usual sums and form, for the payment of such costs as may be legally decreed against any such claimants or appellants, on the faith and engagement of the said United States to indemnify them for any losses or damages which they may sustain thereby; and whereas I am empowered and instructed to authorize you to execute bonds and make engagements (under my direction) to effectuate the said purposes: Now, therefore, I do hereby authorize you, in your capacity of agent, aforesaid, to pledge the faith of the said United States to the said Bird, Savage, & Bird, that the said United States shall and will well and truly indemnify,

and keep harmless, the said Bird, Savage, & Bird, and each and every of them, and their respective heirs, executors, and administrators, from and against all damages, costs, and charges, which they shall sustain or necessarily be put to, by reason of their becoming sureties, as aforesaid, and will well and truly repay to them, their heirs, executors, or administrators, whatever sums of money they or either of them shall be obliged to pay on that account, together with interest for the same.

Given under my hand and seal, the fifth day of January, in the year of our Lord one thousand seven hundred and ninety-five.

Now, know ye, that I, the above-named Samuel Bayard, agent, as aforesaid, do hereby pledge the faith of the said United States to the said Bird, Savage, & Bird, that the said United States shall and will well and truly indemnify and keep harmless the said Bird, Savage, & Bird, and each and every of them, and their respective heirs, executors, and administrators, from and against all damages, costs, and charges, which they shall sustain or necessarily be put to, by reason of their becoming sureties, as aforesaid, and shall and will well and truly repay to them, their heirs, executors, or administrators, whatever sums of money they, or either of them, shall be obliged to pay on that account, with interest for the same.

In witness whereof, I, the said Samuel Bayard, agent, as aforesaid, have hereunto set my hand and seal, at London, on the — day of January, in the year of our Lord one thousand seven hundred and ninety-five.

Sealed and delivered in the presence of —.

Having more public money in my hands than I shall probably want, and Mr. Pinckney thinking that he could draw some money from Holland, we agreed each to place five hundred pounds in Mr. Bird's hands, as a fund to defray the current expenses of the prosecutions, until the measures to be taken on your side of the water for the purpose can be concerted.

When this is done, I purpose to give Mr. Bayard instructions relative to his drawing and applying moneys from this little fund; as to his agency, in general, I have given him the following, viz:

To SAMUEL BAYARD, Esq., *appointed by the President of the United States of America agent for claims and appeals, &c.*

It having been made my duty to give you instructions relative to your agency, I think it expedient to give you the following for the present, and will add to them as circumstances may require:

Agreeably to the advice which you have already received from me, you will procure a proper register, and enter in it the title of every cause, and note the different papers which belong to it, and minute, from time to time, every step and proceeding in the cause.

You will, I think, find it useful to class all the cases according to their discriminating and governing principles and merits. Considering the number and variety of cases, this cannot be

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hastily accomplished; much examination, care, and judgment, will be indispensable to performing it with accuracy; but, without such a classification, there will be danger of confusion; order facilitates every kind of business.

Make a correct statement of one or two cases of each class for the consideration and opinion of counsel; take their opinions in writing, and send them to the Secretary of State.

With respect to such of the classes as, in their opinion, may be prosecuted with a prospect of success, put all the cases of such classes as speedily as possible into a state for decision, but select one or two to take the lead for formal argument: to the end that the decrees in those cases may become rules whereby to decide all others under similar circumstances. There can be no use in expending time and money in causing long briefs and labored arguments to be prepared, in a great many causes, whose merits are essentially alike.

If any one or more of the classes cannot, in the opinion of counsel, be prosecuted with a prospect of success, you will, nevertheless, file the claims and appeals, but not proceed further, until you shall have sent the opinions to the Secretary of State, and received his instructions, provided there be time; otherwise it will be best to give one or two of the strongest cases a strenuous trial, even though the last resort; and, in the meantime, take care that none of the others go against you by default.

You will find that, in many of the cases, necessary documents and proofs are wanting; in such cases state the defects immediately to the Secretary of State; and (when opportunities offer) write also to the claimants or owners; point out, very particularly, what you want, and the manner in which the business should be done; and, if you have doubts, consult your counsellors. You know that commissions for examining witnesses abroad may be had, and may be expedient, in cases where extra proofs may be had, and be permitted. By all means avoid delay, and take care to be particular, perspicuous, and explicit in your communications.

Money will, from time to time, be wanted, to defray the expenses incident to the suits. Mention this to the Secretary of State, in order that proper measures for the purpose may be taken, without loss of time. The fund I am preparing for those expenses will not be adequate.

In some of the cases the claimants or owners will probably constitute agents of their own to manage them; should papers respecting such cases be in your hands, you will deliver them to such agents, taking their receipts for the same; cultivate a good understanding with such agents; be useful to them, and endeavor to dispose them to be useful to you.

You will regularly inform the Secretary of State of your progress and prospects in the business; and I think it would be well to submit to his consideration the expediency of sending you a formal appointment, together with such instructions as may be deemed proper.

Whenever an application to the Government

here would, in your opinion, be advisable, and on every other occasion, when you may desire advice and aid, you will apply to me, or, in my absence, to Mr. Pinckney.

You have undertaken an arduous task—great responsibility is attached to it. Although you have able counsellors in Sir William Scott and Dr. Nicholl, yet unremitting attention and diligence, on your part, will be absolutely necessary to your giving even a moderate degree of satisfaction to the many persons whose important interests are confided to your care and management. You will always find me ready to assist you in so conducting your agency as to render it beneficial and satisfactory to them, and honorable to yourself.

Given under my hand, at London, on the fifth day of January, in the year of our Lord one thousand seven hundred and ninety-five.

Permit me to suggest the expediency of arranging all matters that relate to Mr. Bayard's agency, as speedily as possible, and of giving him explicit instructions relative to the conduct of it. I shall, if alive and well, return in the Spring, and it will be best to provide for exchanging the ratifications of the Treaty, in case of my absence, by committing that formality either to Mr. Pinckney, if here, or to our Consul, Mr. Johnson.

I have had some conversation with the Lord Chancellor about the Maryland cause, and am inclined to think it will have a favorable issue. In this I may be mistaken; but I shall continue to attend to it. During the negotiation I could think of and attend to little else.

With sentiments of respect and esteem, I have the honor to be, sir, your most obedient and humble servant,

JOHN JAY.

The Hon. EDM. RANDOLPH,  
*Secretary of State, &c.*

P. S. In my opinion, Mr. Pinckney should defer a certain business until the Treaty is ratified; it will afford him strong ground for strong measures. I think this Government would rather promote than mar the business alluded to; indeed, I am convinced of it, from a variety of considerations.

*Mr. Jay to Mr. Randolph—No. 28.*

LONDON, January 31, 1795.

SIR: You will herewith receive a duplicate of my letter of the 7th instant to which this will be little more than a supplement; since the date of it no letters from you have come to hand, nor has anything very interesting to the object of my mission occurred. My health is mended, and I wait with as much patience as I can command for the day of my return to my country and family.

On the 27th instant Mr. Bayard wrote me the following letter, viz:

HATTON GARDEN, January 27, 1795.

DEAR SIR: Your instructions of the 5th reached me on the 8th instant. The receipt of them I

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wished to acknowledge immediately, but was prevented by the circumstance of then changing my lodgings. Since my removal I have delayed this duty till I could announce to you some progress in the business under my care.

In pursuance of your former advice I had procured a "proper register," in which, conformably to your recent instruction, I have, with the assistance of a proctor, been engaged in entering the "title of every cause," in their order, as marked in Mr. Trumbull's list; the contents of every record and paper are examined, and the prominent features of every cause are copied into the register. In doing this, the first object of regard is to ascertain whether the usual time of entering an appeal has expired in any of the cases; that, if it has not, but shortly would expire, we might avoid the extra expense, delay, and trouble, of specially applying for leave to enter such appeal. Having accomplished this, our next step will be, agreeably to your instructions, to "class the cases according to their discriminating and governing principles and merits." After which your other directions will regularly come into operation, and be faithfully executed.

There are, as you observe, sir, "in many of the cases, necessary documents and proofs wanting." In such, as soon as I possibly can with accuracy, I propose "to state the defects to the Secretary of State, and (when opportunities offer) to the claimants or owners." But to supply, for the present, the want of this particular information, I have described minutely to the Secretary of State the kinds of evidence, and the mode of authenticating the same, that will be requisite to support the claims and appeals I am about to institute. If this should be communicated to the merchants of the United States, it will inform such as have sent forward some papers, the deficiencies to be supplied; and it will instruct such as have not yet forwarded any of their proofs, how to render them complete.

There is no one of your instructions I have more at heart, sir, than that which enjoins me, "by all means, to avoid delay." I am fully aware of the anxiety of the many persons whose interests I have in charge, speedily to obtain a restoration of the property of which they have been illegally deprived. I am aware, also, that our fellow-citizens, particularly those of the Eastern States, from being unaccustomed to great delay in legal controversies, will brook with impatience the dilatory proceedings of the English Courts of Admiralty. Rest assured, sir, I shall, therefore, diligently exert myself, and constantly urge our proctors to have the causes prepared for a hearing at the earliest moment, that no avoidable delay may exist, but if any should, that it may not be attributable to us.

The sum of money which the United States will have to advance for the prosecution of this business, I am sorry to say, will be very considerable. I have mentioned to the Secretary of State the average expense that will be incurred in each cause, and that ought to be provided for by the General Government. The proctors will expect

an advance of about thirty pounds, in each cause where proceedings are instituted, which they must disburse to the advocates, register, &c., and for which they will particularly account.

If I am occasionally to take the opinion of counsel, as you intimate, by remarking that "I shall have able counsellors in Sir William Scott and Dr. Nicholl," it seems necessary to apprise you that a compensation for the advice I may take will always be expected.

There are, sir, as you know, sundry agents of American merchants in town, who have under their care some cases of appeal or claim. I have been requested by some of them to assume the direction of these causes, and to prosecute them at the expense of the United States; this, however, I have declined doing until I could have your express instructions on the subject, which I request, as well for my own government as for the satisfaction of the gentlemen making the application.

In regard to the proctors whom we had best employ, I have made inquiry and taken advice. Messrs. Cricket and Townley, and Mr. Slade, have come forward with the strongest recommendations. Into the hands of the latter gentleman my judgment clearly points it out as our interest to put the larger part of the business; and for these reasons: he has in a Mr. Keernan a very able assistant; he has not much business at present on hand; he is highly recommended for his ability, energy, and despatch; he offers the whole time and attention of himself and associate to the American business; he has in no instance, during the present war, been concerned for captors, but always for neutral claimants; his principles, and many of his friendships, are American. To me, personally, it is more agreeable to transact business with him and his assistant, than with others of his profession.

On the other hand, Messrs. Cricket and Townley have a large mass of the Danish and Swedish business still on hand; this may interfere in some degree with that of our fellow-citizens. Mr. Cricket's public engagements throw the burden of his business on his partner; we cannot, of course, expect a devotion of even the larger part of his time to our causes. These things, however, sir, I state in perfect submission to your direction. Whatever instructions you may please to give in relation to the claims and appeals I am about to institute, it shall always be my pleasure, as it is my duty, implicitly and cheerfully to obey.

I have the honor to be, &c.,

SAMUEL RAYARD.

To the Hon. JOHN JAY, Esq.

To this letter I returned the following answer, viz :

ROYAL HOTEL, Pall Mall,

January 27, 1795.

DEAR SIR: I was this afternoon favored with your letter of yesterday, informing me, among other things, "that there are sundry agents of American merchants in town, who have under their care some cases of appeal or claim, and that



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you have been requested by some of them to assume the direction of those causes, and to prosecute them at the expense of the United States; that you had, however, declined doing it, until you should receive my express instructions on the subject."

In my opinion it will be proper for you to state this application to the Secretary of State, and be directed by such instructions as he may send to you relative to it. The claimants are now prosecuting these causes by their own agents, and perhaps from preference; and I much doubt the propriety of your assuming those causes at present, on the spontaneous applications of those agents. The United States will doubtless conduct their interposition in favor of claimants on such principles as shall be just and proper; and it will probably not be long before their arrangements and orders will be perfected and communicated to you.

As to the proctors most advisable to employ, Sir William Scott, from motives of professional delicacy, declined recommending any in particular. Having no personal knowledge of the characters or professional merits of any of them, I found it necessary to be guided by the opinions of others. Mr. Pinckney, our Minister, and Mr. Johnson, our Consul, assured me (as I mentioned to you) that Cricket and Townley, whom they had employed, had managed their business to their satisfaction. Their recommendation is with me decisive, as well from their ability and means of forming a right judgment, as from the confidence due to their private and public characters. As men, they are judicious and upright; as public officers, they gave me their opinions and advice, under a sense of official obligations, and under the influence of that attachment to our country and its interests which foreigners cannot readily be supposed to possess in an equal degree. Besides, it is a maxim with me, that they who are faithful to us and who conduct our affairs to our satisfaction, should not be neglected by us. Neglect, under such circumstances, gives unmerited pain, and encourages malevolent imputations. For these reasons I think it my duty to instruct you to employ Messrs. Cricket and Townley in all cases in which the claimants shall not have already employed proctors, or in which they shall not otherwise direct; provided, however, that you are perfectly free from all commitments to Mr. Slade. But if you are so circumstanced, relative to that gentleman, as that he has good reason to expect at least some share in the business, then, sir, I think it will be proper to give him such a number of the causes, not exceeding fifty, as in your opinion may be necessary to evince the fairness and sincerity of your intentions, in giving occasion to any reasonable expectations which your communications with him may have led him to entertain.

I postpone observations on pecuniary matters until the arrangement I am making on that subject, and which I mentioned to you, shall be completed. Be assured that every measure which may conduce to facilitate the business of your

agency will command the earnest attention and best endeavors of, dear sir, yours, &c.

To SAMUEL BAYARD, Esq.

Thus, sir, from this letter, and from No. 27, you will acquire exact information of my proceedings relative to Mr. Bayard's agency. I am endeavoring, in concert with Mr. Pinckney and Sir William Scott, to form such an arrangement relative to pecuniary matters as to regulate payments to the proctors, to prevent improper charges, and so, to conduct that part of the business, as that proper vouchers for all the expenditures may be kept and preserved. I am solicitous to prevail on Sir William Scott to examine the proctor's bills, and certify them to be right before they are paid. He has taken the subject into consideration, but as yet I have not got his answer. There are difficulties in forming this arrangement; I will do the best I can.

With sentiments of respect and esteem, I have the honor to be, sir, your most obedient and humble servant,

JOHN JAY.

HON. EDM. RANDOLPH, Esq.,

*Secretary of State, &c.*

P. S. Such is the nature and magnitude of the business of these capture cases, as that, on certain occasions, diplomatic and prudential, as well as legal proceedings may be advisable. Having maturely reflected on the subject, I take the liberty of submitting to your consideration the propriety of giving Mr. Pinckney a general superintendence over the business, and authorizing him to give Mr. Bayard such instructions as he may from time to time judge proper.

*Mr. Jay to Mr. Randolph—No. 29.*

LONDON, February 2, 1795.

SIR: It occurs to me that I have omitted to inform you that, after signing the Treaty, I took the three first opportunities which offered, of writing to our Minister at Paris, "that it contained an express declaration that nothing contained in it should be construed, or operate against existing Treaties between the United States and other Powers."

The following are copies of those letters, viz:

No. 1.

LONDON, November 24, 1794.

SIR: It gives me pleasure to inform you that a Treaty between the United States and His Britannic Majesty was signed on the 19th instant.

This circumstance ought not to give any uneasiness to the Convention. The Treaty expressly declares that nothing contained in it shall be construed or operate contrary to existing Treaties between the United States and other Powers. I flatter myself that the United States, as well as all their Ministers, will, upon every occasion, manifest the most scrupulous regard to good faith; and that those nations who wish our prosperity

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will be pleased with our preserving peace and good understanding with others.

I have the honor to be, &c.

Hon JAMES MONROE, Esq.,  
*Minister United States at Paris.*

No. 2.

LONDON, November 25, 1794.

SIR: By a letter written and sent a few days ago, I had the pleasure of informing you that, on the 19th instant, the principal business of my mission was concluded by a Treaty signed on that day.

It contains a declaration that it shall not be construed nor operate contrary to our existing Treaties. As, therefore, our engagements with other nations remain unaffected by it, there is reason to hope that our preserving peace and a good understanding with this country, will not give uneasiness to any other. As the Treaty is not yet ratified it would be improper to publish it. It appears to me to be, upon the whole, fair, and as equal as could be expected. In some respects both nations will probably be pleased, and in others displeased.

I have the honor to be, with great respect, &c.

Hon Mr. MONROE, &c., *Paris.*

No. 3.

LONDON November 28, 1794.

SIR: Within this week past I have written to you two letters to inform you that, on the 19th instant, a Treaty between the United States and His Britannic Majesty was signed. The design of this letter is chiefly to introduce to you Mr. Pleasants, of Philadelphia, whose connexions there are respectable. I have not the pleasure of being personally acquainted with this gentleman, but as a fellow-citizen I wish to do him friendly offices; and I am persuaded that a similar disposition on your part will insure to him such a degree of attention as circumstances may render proper.

As Mr. Pinckney has a cipher with our other Ministers in Europe, either he or I will shortly use it, in communicating to you the principal heads of the Treaty confidentially. You need not hesitate, in the meantime, to say explicitly that it contains nothing repugnant to our engagements with any other nation.

With the best wishes for your health and prosperity, I have the honor to be, &c.

The Hon. JAMES MONROE, Esq.,  
*Minister of the United States  
to the French Republic.*

Considering that the declaration in question need not be kept secret, but, on the contrary, that advantages would result from its publicity, I also authorized a respectable American merchant here, who had correspondents in France, to mention it in explicit terms. My letters to Mr. Short and Mr. Adams conveyed the like information; it appeared to me proper to take these early measures

to obviate any disagreeable apprehensions which the French Convention might perhaps otherwise entertain. Whether our Minister at Paris received those letters, I have as yet no information from him. From Mr. Short and Mr. Adams I have received answers.

I have the honor to be, with sentiments of respect and esteem, sir, your most obedient and humble servant,

JOHN JAY.

The Hon. EDM. RANDOLPH, Esq.,  
*Secretary of State, &c.*

*Mr. Jay to Mr. Randolph—No. 30.*

LONDON, February 5, 1795.

SIR: I received yesterday the following letter from Mr. Monroe, our Minister at Paris, viz:

PARIS, January 17, 1795.

SIR: Early in December last, English papers were received here, containing such accounts of your adjustments with the British administration as excited much uneasiness in the councils of this Government, and I had it in contemplation to despatch a confidential person to you for such information of what had been done as would enable me to remove it. At that moment, however, I was favored with yours of the 25th November, intimating that the contents of the Treaty could not be made known until it was ratified, but that I might say it contained nothing derogatory to our existing Treaties with other Powers. Thus advised, I thought it improper to make the application, because I concluded the arrangement was mutual, and not to be departed from. I proceeded, therefore, to make the best use in my power of the information already given.

To-day, however, I was favored with yours of the 28th of the same month, by which I find you consider yourself at liberty to communicate to me the contents of the Treaty; and as it is of great importance to our affairs here to remove all doubt upon this point, I have thought it fit to resume my original plan of sending a person to you for the necessary information, and have in consequence despatched the bearer, Mr. John Purviance, for that purpose. I have been the more induced to this from the further consideration, that, in case I should be favored with the communication promised in cipher, it would be impossible for me to comprehend it, as Mr. Morris took his off with him. Mr. Purviance is from Maryland, a gentleman of integrity and merit, and to whom you may commit whatever you may think proper to confide with perfect safety. It is necessary, however, to observe, that, as nothing will satisfy this Government but a copy of the instrument itself, and which as our ally, it thinks itself entitled to, so it will be useless for me to make to it any new communication short of that; I mention this that you may know precisely the state of my engagements here, and how I deem it my duty to act under them in relation to this object. I beg leave to refer you to Mr. Purviance for whatever other information you may wish to have either

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on this subject, or the affairs more generally of this Republic.

I have the honor to be, with great respect, your most obedient servant,

JAMES MONROE.

To this letter I returned the following answer, viz:

LONDON, *February 5, 1795.*

SIR: I have received the letter which you did me the honor to write on the 17th of last month by Mr. Purviance. It is much to be regretted that any unauthorized accounts, in English newspapers, of my "adjustments with the British administration," should have excited much uneasiness in the councils of the French Government; and the more so, as it does not imply that confidence in the honor and good faith of the United States which they certainly merit.

You must be sensible that the United States, as a free and independent nation, have an unquestionable right to make any pacific arrangements with other Powers which mutual convenience may dictate; provided those arrangements do not contradict or oppugn their prior engagements with other States.

Whether this adjustment was consistent with our Treaty with France, struck me as being the only question which could demand or receive the consideration of that Republic, and I thought it due to the friendship subsisting between the two countries that the French Government should have, without delay, the most perfect satisfaction on that head. I, therefore, by three letters of the 24th, 25th, and 28th of November, 1794, gave you what I hoped would be very acceptable and satisfactory information on that point. I am happy in this opportunity of giving you an exact and literal extract from the Treaty; it is in these words, viz:

"Nothing in this Treaty contained shall, however, be construed, or operate contrary to former and existing public Treaties with other Sovereigns or States."

Considering that events favorable to our country could not fail to give you pleasure, I did intend to communicate to you concisely some of the most interesting particulars of this Treaty, but in the most perfect confidence, as that instrument has not yet been ratified, nor received the ultimate forms necessary to give it validity. As further questions respecting parts of it may yet arise, and give occasion to further discussions and negotiations, so that, if finally concluded at all, it may then be different from what it now is, the impropriety of making it public at present is palpable and obvious; such a proceeding would be inconvenient and unprecedented. It does not belong to Ministers who negotiate Treaties to publish them even when perfected, much less Treaties not yet completed, and remaining open to alteration or rejection. Such acts belong exclusively to the Governments who form them.

I cannot but flatter myself that the French Government is too enlightened and reasonable to expect that any consideration ought to induce me

to overleap the bounds of my authority, or to be negligent of the respect which is due to the United States. That respect, and my obligations to observe it, will not permit me to give, without the permission of their Government, a copy of the instrument in question to any person, or for any purpose; and by no means for the purpose of being submitted to the consideration and judgment of the councils of a foreign nation, however friendly.

I will, sir, take the earliest opportunity of transmitting a copy of your letter to me, and of this in answer to it, to the Secretary of State, and will immediately and punctually execute such orders and instructions as I may receive on the subject.

I have the honor to be, with great respect, sir, your most obedient, humble servant,

JOHN JAY.

The Hon. JAMES MONROE,

*Minister of the United States  
to the Republic of France.*

As this letter and the answer to it speak for themselves, I forbear making any remarks.

I have the honor to be, with respect and esteem, sir, your most obedient and humble servant,

JOHN JAY.

The Hon. EDM. RANDOLPH, Esq.,

*Secretary of State.*

*Mr. Jay to Mr. Randolph—No. 31.*

LONDON, *February 6, 1795.*

SIR: I was yesterday honored with yours of the 3d December last. Our vessels here being confined by the ice, I think it best to send you some despatches by the packet.

In considering the Treaty, it will doubtless be remembered, that there must be two to make a bargain. We could not agree about the negroes. Was that a good reason for breaking up the negotiation? I mentioned in a former letter, that I considered our admission into the islands as affording compensation for the detention of the posts, and other claims of that nature. In that way we obtain satisfaction for the negroes, though not in express words.

We are not obliged by Treaty to permit the French to sell prizes in our ports. By denying that privilege to all, we adhere to the line of impartiality; and without being assured of impartiality on our part, Britain would not have granted us what she has.

I wish the season had permitted me to accompany the Treaty, for I think it is in my power to give you satisfactory answers to every question that can arise from it.

I have the honor to be, with respect and esteem, sir, your most obedient servant.

JOHN JAY

The Hon. EDM. RANDOLPH,

*Secretary of State.*

*Mr. Jay to Mr. Randolph—No. 32.*

LONDON, *February 22, 1795.*

SIR: This letter will comprise a duplicate of

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my letter to you, No. 30, of the 5th instant, and also a copy of an additional letter which I wrote to Mr. Monroe on the 19th instant, and which will be carried to Paris by Col. Trumbull (See No. 30.)

*Copy of an additional letter, viz:*

LONDON, February 19, 1795.

SIR: On the 5th of this month I had the honor of writing to you a letter in answer to yours of the 17th ult. by Mr. Purviance, who is still here waiting for an opportunity to return, and who will be the bearer of that letter.

You will receive this by Col. Trumbull, who, for some time past, has been waiting for an opportunity to go through Paris to Stutgard on private business of his own. He did me the favor to accompany me to this country as my Secretary. He has been privy to the negotiation of the Treaty between the United States and Great Britain, which I have signed; and having copied it, is perfectly acquainted with its contents. He is a gentleman of honor, understanding, and accuracy, and able to give you satisfactory information relative to it. I have thought it more advisable to authorize and request him to give you this information personally than to send you written extracts from the Treaty, which might not be so satisfactory. But he is to give you this information in perfect confidence that you will not impart it to any person whatever; for, as the Treaty is not yet ratified, and may not be finally concluded in its present form and tenor, the inconveniences which a premature publication of its contents might produce, can only be obviated by secrecy in the meantime. I think myself justifiable in giving you the information in question, because you are an American Minister, and because it may not only be agreeable, but perhaps useful.

I have the honor to be, with great respect, sir, your most obedient and humble servant,

JOHN JAY.

The Hon. JAMES MONROE, Esq.

I flatter myself that these letters which I have written to Mr. Monroe will meet with the President's and your approbation.

I have the honor to be, with sentiments of respect and esteem, sir, your most obedient and humble servant,

JOHN JAY.

The Hon. EDM. RANDOLPH, Esq.

*Secretary of State, &c.*

P. S. I have been honored with yours of the 4th November, and 11th and 16th of December, and with duplicates of yours of 15th, 20th, and 23d December last, and in reply, shall write by one of the Philadelphia vessels, soon to sail.

*Mr. Jay to Mr. Randolph—No. 33.*

LONDON, March 5, 1795.

SIR: On the 7th of last month I received the letter you was so obliging as to write me on the 16th December last, requesting to be informed

what would probably be required for my expenditures over the eighteen thousand dollars, in order that you might lodge a proper sum for me in Amsterdam.

It gives me pleasure to inform you that the eighteen thousand dollars will, in my opinion, be more than sufficient for the expenses incident to my mission. When you receive my letter respecting Mr. Bayard's agency, and the expenses that will attend it, and for which provision was yet to be made, you will be informed of my intention to apply part of these eighteen thousand dollars to those expenses; and consequently, that further supplies to me would not be requisite. It is, nevertheless, proper that I should write to you particularly about my expenditures, and I should have done it sooner, had I been less engaged about other matters more immediately interesting.

On considering of the manner of dwelling most advisable for me to adopt during my stay here, four plans or modes engaged my attention. To take a house and purchase furniture, &c.; to take a house and hire furniture, &c.; to take lodgings; to reside in a hotel.

To take a house and furnish it, to hire and provide for the number of servants that would be necessary, to purchase the plate, china, glass, linen, liquors, kitchen utensils, and the many other articles which according to the most strict rules of economy and propriety, would be indispensable, would, with the expense of a decent table, carriage, &c., require nearly the whole sum allotted. On my return to America, all these things would remain to be sold at auction, and at a very great loss.

To take a house and hire the furniture, and the numerous other necessary articles, was liable to objections equally strong. The ordinary rate of hire, I was told, amounted to an exceeding high interest on the prime cost. I should be responsible for loss, waste, and damage, and be exposed to disputes, and extravagant demands about them. An equal number of servants would be requisite, and the losses from their peculation and mismanagement would be the same. To go into lodgings, I soon found was out of the question, there being none of a proper class, where a table would be provided. From these concise hints, you will perceive that, of these plans, that of residing in a hotel was the most expedient.

The expenses of living in a hotel are well known to be extravagantly high, but they are simple; many servants would not be necessary; and, on calculation, it became evident that the excess in the price of everything which I should there pay, would not amount to near as much as the losses and extra expenses incident to either of the two first-mentioned plans. But had this been otherwise, there was an objection which appeared to me of still greater importance. As I expected to remain in this country only until my business should be finished, anything that looked like a settled establishment would have counteracted the idea of a residence only for a few months, and would naturally have created and justified an opinion that I did not expect to have my negotiations ter-

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minated with that expedition which I professed and pressed.

To reside in a hotel not being usual for a foreign Minister, I took care to let it be known that I expected to return in the course of a few months, and therefore could have no inducement to take a house.

The hotel I preferred is the one I am still in, viz: Royal Hotel, in Pall Mall, near St. James—the first, but the most expensive in London. My reasons for preferring the first must be obvious to you, and need not to be particularized. I have but three servants—the one I brought with me, a footman, and a coachman—yet my expenses run high, and the bills are often so like exactions as sometimes to try my patience. I know that I pay more than is reasonable, and am frequently charged rather according to the station I am in than the value of what I have; but I am nevertheless certain that, in this situation, less of the public money in my hands will be expended than in any other in which I could, with propriety, have placed myself.

Having perfect confidence in the accuracy, as well as integrity, of Colonel Trumbull, I have made it an invariable rule, from the beginning, to commit to him the settlement and payment of all accounts, and the keeping of the books in which they are entered. I have therefore given him successive orders on my bankers for generally about one hundred pounds at a time, for which he made himself debtor, and regularly accounted. I regret that his private concerns call him to Stutgard; but that being the case, I could not refuse my consent. His salary is paid up to the 12th of last month. My son will act for him as Secretary during his absence, so that his appointment and salary will continue until my departure for America. Until his return, I shall cause all moneys paid out to pass through the hands of my son. Pecuniary transactions for others are always delicate, and the utmost care and fidelity will not always be sufficient to guard one against the suspicions and imputations which certain characters (common to all countries) may find it convenient to germinate and encourage.

When Mr. J. Q. Adams was here, on his way to Holland, I advanced him fifty guineas. The following extract of a letter from him, of the 21st November last, explains the manner in which that sum is to be accounted for to the public:

“The fifty guineas for which you was so obliging as to give me an order upon the Messrs. Cazanove, our bankers here have agreed to charge to my account; it will therefore be no further troublesome to you.”

The bills you gave me for 40,746.4 on Amsterdam	
were negotiated by the Messrs. Cazanove, and	
produced, in sterling	£3,391 13 5
The draft for \$1,000 on the Branch	
Bank at New York produced	219 9 0
	<u>£3,611 2 5</u>

Of this money somewhat more than one-half still remains, and there are no outstanding accounts to pay.

With sentiments of respect and esteem, I have the honor to be, sir, your most obedient and humble servant,

JOHN JAY.

The Hon. EDM. RANDOLPH,  
*Secretary of State, &c.*

*Mr. Jay to Mr. Randolph.*

NEW YORK, May 28, 1795.

SIR: It appearing by advices from America that the Treaty had not arrived at Philadelphia the last of February, I concluded that the ratification could not reach me in season to return in any of the Spring vessels that yet remained. I embarked at Bristol the 12th April, on board the *Severn*, Captain Goodrich, and landed here this afternoon, when I had the pleasure of receiving yours of the 26th of last month. Not having had a well day during the voyage, I am at present too feeble to undertake a journey to Philadelphia: perhaps I may in a week or ten days be so far recruited as to be able to perform it. It will be useful that we confer. At this moment I cannot enlarge, for want of leisure; besides, I find myself greatly fatigued. Remember me to the President. Accept my thanks for your obliging attention to Mrs. Jay.

Yours, &c.

JOHN JAY.

The Hon. EDM. RANDOLPH,  
*Secretary of State, &c.*

*Mr. Jay to Mr. Randolph.*

NEW YORK, June 1, 1795.

SIR: Last Thursday evening I wrote you a few hasty lines, to inform you that I had just arrived; that I had received your letter of the 26th ultimo; that I was too feeble to repair immediately to Philadelphia; and that I hoped to be able to undertake the journey in eight or ten days. Be so good as to inform me whether I may expect you here; if not, I will go for a few days out of town, where I should probably recruit faster than at home. I shall attempt the journey to Philadelphia within a fortnight, unless I should grow weaker, which I do not apprehend. The communications proposed for the Senate indicate the disposition I expected. I had no apprehensions on that head, being persuaded that those communications would be entirely directed by regard to public good. Be pleased to present my respectful compliments to the President.

With sentiments of respect and esteem, I remain, sir, your most obedient servant,

JOHN JAY.

The Hon. EDM. RANDOLPH,  
*Secretary of State.*

*Mr. Jay to Mr. Randolph.*

NEW YORK, June 1, 1795.

SIR: Since writing to you this morning, by Mr. Bingham, I have been honored with yours of the 30th ultimo.

Your reasons for not thinking it advisable to leave Philadelphia at present are, I think, conclusive.



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In the course of the next week I hope to be with you, and then to give you more full and satisfactory answers to your letter than the following concise ones, viz : To the first question. In my opinion the views of Great Britain, when I arrived there, had been, and then were, so far hostile to us as they had been rendered so by popular indications of a disposition in this country to aid France in the war against her.

2. I am convinced that the evacuation of the posts at a more early period was (for the reasons mentioned in my letter on that subject) unattainable. It was my duty—and I have strenuously, and I believe successfully, endeavored—to exhaust their ultimatums.

3. Notwithstanding all that could be said to postpone the prohibition to sell prizes until after the present war, it was insisted that, as on the one hand, they asked nothing from us but what they had a right to expect from a neutral nation, so, on the other, that no deviations from the line of impartiality (not stipulated for by our pre-existing Treaties) could possibly be admitted.

4. Most clearly the Treaty does prohibit the re-exportation from the United States, in American vessels, of the West India commodities enumerated in the Treaty, though brought from French islands, it being impossible to distinguish; but we may carry them from French or other islands (not British) to Europe. That article being offered as a privilege or boon, we cannot avail ourselves of it without complying with the stipulation to pass laws to prohibit the re-exportation of the enumerated articles. If the article should be regarded as ineligible, might not the passing of those laws be postponed, and the trade continue to go on as at present—taking care properly to represent to the British Government the wishes of the United States that this article may not be carried into execution, and requesting their consent to its remaining dormant? In my opinion, however, it is manifestly our interest to accept and to execute it; especially, considering its very limited duration, and the probability of its being introductory to more favorable arrangements, as the public mind in Britain shall gradually become more reconciled to this and the other unprecedented departures from their favorite navigation act.

5. The Danish spoiliations were not adjusted when our Treaty was signed, and I have no idea of their obtaining better terms.

6. The discussions in the Admiralty will probably be tedious, and the more so from the want of documents in the great majority of the cases. In a large number of them appeals and claims have not yet been lodged, for want even of the names of the parties.

7. Such orders may be expected as the Treaty, according to its true intent and meaning, shall dictate. I believe it will be fairly and liberally executed, unless new cases of irritation and disgust should arise. I have, for my part, no doubt of their dispositions and sincere desire to give the system of conciliation with us a full and fair experiment.

With sentiments of respect and esteem, I have

the honor to be, sir, your most obedient and humble servant,

JOHN JAY.

The Hon. EDM. RANDOLPH,  
*Secretary of State, &c.*

*Treaty of Amity, Commerce, and Navigation, between his Britannic Majesty and the United States of America, by their President, with the advice and consent of their Senate.*

His Britannic Majesty and the United States of America being desirous, by a Treaty of Amity, Commerce, and Navigation, to terminate their differences in such a manner as, without reference to the merits of their respective complaints and pretensions, may be the best calculated to produce mutual satisfaction and good understanding; and also to regulate the commerce and navigation between their respective countries, territories, and people, in such a manner as to render the same reciprocally beneficial and satisfactory; they have, respectively, named their Plenipotentiaries, and given them full powers to treat of and conclude the said Treaty—that is to say: His Britannic Majesty has named for his Plenipotentiary the Right Honorable William Windham, Baron Grenville, of Wotton, one of His Majesty's Privy Council, and His Majesty Principal Secretary of State for Foreign Affairs; and the President of the said United States, by and with the advice and consent of the Senate thereof, hath appointed for their Plenipotentiary the Honorable John Jay, Chief Justice of the said United States, and their Envoy Extraordinary to His Majesty—who have agreed on and concluded the following articles:

ART. 1. There shall be a firm, inviolable, and universal peace, and a true and sincere friendship between his Britannic Majesty, his heirs and successors, and the United States of America; and between their respective countries, territories, cities, towns, and people of every degree, without exception of persons or places.

ART. 2. His Majesty will withdraw all his troops and garrisons from all posts and places within the boundary lines assigned by the Treaty of Peace to the United States. This evacuation shall take place on or before the first day of June, one thousand seven hundred and ninety-six, and all the proper measures shall in the interval be taken by concert between the Government of the United States and His Majesty's Governor General in America, for settling the previous arrangements which may be necessary respecting the delivery of the said posts—the United States, in the meantime, at their discretion, extending their settlements to any part within the said boundary line, except within the precincts or jurisdiction of any of the said posts. All settlers and traders within the precincts or jurisdiction of the said posts shall continue to enjoy, unmolested, all their property of every kind, and shall be protected therein. They shall be at full liberty to remain there, or to remove, with all or any part of their effects; and it shall also be free to them to sell their lands, houses, or effects, or to retain the property thereof,

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at their discretion. Such of them as shall continue to reside within the said boundary lines shall not be compelled to become citizens of the United States, or to take any oath of allegiance to the Government thereof; but they shall be at full liberty so to do if they think proper, and they shall make and declare their election within one year after the evacuation aforesaid. And all persons who shall continue there after the expiration of the said year without having declared their intention of remaining subjects of His Britannic Majesty, shall be considered as having elected to become citizens of the United States.

ART. 3. It is agreed that it shall at all times be free to His Majesty's subjects, and to the citizens of the United States, and also to the Indians dwelling on either side of the said boundary line, freely to pass and repass by land or inland navigation, into the respective territories and countries of the two parties, on the Continent of America, (the country within the limits of the Hudson's Bay Company only excepted,) and to navigate all the lakes, rivers, and waters thereof, and freely to carry on trade and commerce with each other. But it is understood that this article does not extend to the admission of vessels of the United States into the seaports, harbors, bays, or creeks, of his Majesty's said territories, nor into such parts of the rivers in His Majesty's said territories as are between the mouth thereof and the highest port of entry from the sea, except in small vessels trading *bona fide* between Montreal and Quebec, under such regulations as shall be established to prevent the possibility of any frauds in this respect, nor to the admission of British vessels from the sea into the rivers of the United States, beyond the highest ports of entry for foreign vessels from the sea. The river Mississippi shall, however, according to the Treaty of Peace, be entirely open to both parties; and it is further agreed that all the ports and places on its Eastern side, to whichever of the parties belonging, may freely be resorted to and used by both parties, in as ample a manner as any of the Atlantic ports or places of the United States, or any of the ports or places of His Majesty in Great Britain.

All goods and merchandise whose importation into His Majesty's said territories in America shall not be entirely prohibited, may freely, for the purposes of commerce, be carried into the same in the manner aforesaid, by the citizens of the United States, and such goods and merchandise shall be subject to no higher or other duties than would be payable by his Majesty's subjects on the importation of the same from Europe into the said territories. And in like manner, all goods and merchandise whose importation into the United States shall not be wholly prohibited, may freely, for the purposes of commerce, be carried into the same in the manner aforesaid, by His Majesty's subjects, and such goods and merchandise shall be subject to no higher or other duties than would be payable by the citizens of the United States on the importation of the same in American vessels into the Atlantic ports of the said States. And all goods not prohibited to be exported from the said terri-

ties respectively, may, in like manner, be carried out of the same by the two parties respectively, paying duty aforesaid.

No duty of entry shall ever be levied by either party on peltries brought by land or inland navigation into the said territories respectively, nor shall the Indians passing or repassing with their own proper goods and effects, of whatever nature, pay for the same any impost or duty whatever. But goods in bales, or other large packages, unusual among Indians, shall not be considered as goods belonging *bona fide* to Indians.

No higher or other tolls or rates of ferriage than what are or shall be payable by natives shall be demanded on either side; and no duties shall be payable on any goods which shall merely be carried over any of the portages or carrying places on either side, for the purpose of being immediately reimported and carried to some other place or places. But as, by this stipulation, it is only meant to secure to each party a free passage across the portages on both sides, it is agreed that this exemption from duty shall extend only to such goods as are carried in the usual and direct road across the portage, and are not attempted to be in any manner sold or exchanged during their passage across the same; and proper regulations may be established to prevent the possibility of any frauds in this respect.

As this article is intended to render, in a great degree, the local advantages of each party common to both, and thereby to promote a disposition favorable to friendship and good neighborhood, it is agreed that the respective Governments will mutually promote this amicable intercourse, by causing speedy and impartial justice to be done, and necessary protection to be extended to all who may be concerned therein.

ART. 4. Whereas it is uncertain whether the river Mississippi extends so far to the northward as to be intersected by a line to be drawn due west from the Lake of the Woods, in the manner mentioned in the Treaty of Peace between His Majesty and the United States, it is agreed that measures shall be taken in concert between His Majesty's Government in America and the Government of the United States for making a joint survey of the said river, from one degree of latitude below the falls of St. Anthony, to the principal source or sources of the said river, and also of the parts adjacent thereto; and that if, on the result of such survey, it should appear that the said river would not be intersected by such a line as is above mentioned, the two parties will thereupon proceed, by amicable negotiation, to regulate the boundary line in that quarter, as well as all other points to be adjusted between the said parties, according to justice and mutual convenience, and in conformity to the intent of the said Treaty.

ART. 5. Whereas doubts have arisen what river was truly intended under the name of the river St. Croix, mentioned in the said Treaty of Peace, and forming a part of the boundary therein described, that question shall be referred to the final

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decision of Commissioners, to be appointed in the following manner, viz :

One Commissioner shall be named by His Majesty, and one by the President of the United States, by and with the advice and consent of the Senate thereof, and the said two Commissioners shall agree on the choice of a third ; or, if they cannot so agree, they shall each propose one person, and of the two names so proposed, one shall be drawn by lot in the presence of the two original Commissioners. And the three Commissioners, so appointed, shall be sworn impartially to examine and decide the said question, according to such evidence as shall respectively be laid before them on the part of the British Government and of the United States. The said Commissioners shall meet at Halifax, and shall have power to adjourn to such other place or places as they shall think fit. They shall have power to appoint a secretary, and to employ such surveyors or other persons as they shall judge necessary. The said Commissioners shall, by a declaration, under their hands and seals, decide what river is the river St. Croix, intended by the Treaty. The said declaration shall contain a description of the said river, and shall particularize the latitude and longitude of its mouth and of its source. Duplicates of this declaration, and of the statements of their accounts, and of the journal of their proceedings, shall be delivered by them to the agent of His Majesty, and to the agent of the United States, who may be respectively appointed and authorized to manage the business on behalf of the respective Governments. And both parties agree to consider such decision as final and conclusive, so as that the same shall never thereafter be called into question, or made the subject to dispute or difference between them.

ART. 6. Whereas it is alleged by divers British merchants, and others, His Majesty's subjects, that debts to a considerable amount, which were *bona fide* contracted before the peace, still remain owing to them by citizens or inhabitants of the United States, and that, by the operation of various lawful impediments since the peace, not only the full recovery of the said debts has been delayed, but also the value and security thereof have been in several instances impaired and lessened, so that, by the ordinary course of judicial proceedings, the British creditors cannot now obtain, and actually have and receive full and adequate compensation for such losses and damages which they have thereby sustained, it is agreed that, in all such cases, where full compensation for such losses and damages cannot, for whatever reason, be actually obtained, had, and received, by the said creditors, in the ordinary course of justice, the United States will make full and complete compensation for the same to the said creditors ; but it is, distinctly understood that this provision is to extend to such losses only as have been occasioned by the lawful impediments aforesaid, and is not to extend to losses occasioned by such insolvency of the debtors, or other causes, as would equally have operated to produce such loss, if the said impediments had not existed, nor

to such losses or damages as have been occasioned by the manifest delay or negligence, or wilful omission, of the claimant.

For the purpose of ascertaining the amount of any such losses and damages, five Commissioners shall be appointed, and authorized to meet and act in manner following, viz : Two of them shall be appointed by His Majesty, two of them by the President of the United States, by and with the advice and consent of the Senate thereof, and the fifth by the unanimous voice of the other four ; and if they should not agree in such choice, then the Commissioners named by the two parties shall respectively propose one person, and of the two names so proposed one shall be drawn by lot, in the presence of the four original Commissioners. When the five Commissioners thus appointed shall first meet, they shall, before they proceed to act, respectively take the following oath or affirmation, in the presence of each other ; which oath, or affirmation, being so taken, and duly attested, shall be entered on the record of their proceedings, viz : I, A B, one of the Commissioners appointed in pursuance of the sixth article of the Treaty of Amity, Commerce, and Navigation, between His Britannic Majesty and the United States of America, do solemnly swear (or affirm) that I will honestly, diligently, impartially, and carefully examine, and, to the best of my judgment, according to justice and equity, decide, all such complaints as, under the said article, shall be preferred to the said Commissioners ; and that I will forbear to act as a Commissioner in any case in which I may be personally interested.

Three of the said Commissioners shall constitute a Board, and shall have power to do any act appertaining to the said Commissioners, provided that one of the Commissioners named on each side, and the fifth Commissioner, shall be present ; and all decisions shall be made by the majority of the voices of the Commissioners then present. Eighteen months from the day on which the said Commissioners shall form a Board, and be ready to proceed to business, are assigned for receiving complaints and applications ; but they are, nevertheless, authorized, in any particular cases in which it shall appear to them to be reasonable and just, to extend the said term of eighteen months for any term, not exceeding six months, after the expiration thereof. The said Commissioners shall first meet at Philadelphia, but they shall have power to adjourn from place to place, as they shall see cause.

The said Commissioners, in examining the complaints and applications so preferred to them, are empowered and required, in pursuance of the true intent and meaning of this article, to take into their consideration all claims, whether of principal or interest, or balances of principal and interest, and to determine the same, respectively, according to the merits of the several cases, due regard being had to all the circumstances thereof, and as equity and justice shall appear to them to require. And the said Commissioners shall have power to examine all such persons as shall come before them, on oath or affirmation, touching the

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premises; and also to receive in evidence, according as they may think most consistent with equity and justice, all written depositions, or books, or papers, or copies, or extracts thereof; every such deposition, book, or paper, or copy, or extract, being duly authenticated, either according to the legal forms now respectively existing in the two countries, or in such other manner as the said Commissioners shall see cause to require or allow.

The award of the said Commissioners, or of any three of them, as aforesaid, shall, in all cases, be final and conclusive, both as to the justice of the claim and to the amount of the sum to be paid to the creditor or claimant. And the United States undertake to cause the sum so awarded to be paid in specie to such creditor or claimant, without deduction; and at such time or times, and at such place or places, as shall be awarded by the said Commissioners; and on condition of such releases or assignments to be given by the creditor or claimant, as by the said Commissioners may be directed: provided, always, that no such payment shall be fixed by the said Commissioners to take place sooner than twelve months from the day of the exchange of the ratifications of this Treaty.

ART. 7. Whereas complaints have been made by divers merchants and other citizens of the United States, that, during the course of the war in which His Majesty is now engaged, they have sustained considerable losses and damage, by reason of irregular or illegal captures or condemnations of their vessels and other property, under color of authority or commissions from His Majesty; and that, from various circumstances belonging to the said cases, adequate compensation for the losses and damages so sustained cannot now be actually obtained, had, and received, by the ordinary course of judicial proceedings; it is agreed that, in all such cases where adequate compensation cannot, for whatever reason, be now actually obtained, had, and received, by the said merchants and others, in the ordinary course of justice, full and complete compensation for the same will be made by the British Government to the said complainants. But it is distinctly understood that this provision is not to extend to such losses or damages as have been occasioned by the manifest delay or negligence, or wilful omission, of the claimant.

That, for the purpose of ascertaining the amount of any such losses and damages, five Commissioners shall be appointed, and authorized to act in London, exactly in the manner directed with respect to those mentioned in the preceding article; and, after having taken the same oath or affirmation, (*mutatis mutandis*,) the same term of eighteen months is also assigned for the reception of claims, and they are in like manner authorized to extend the same in particular cases. They shall receive testimony, books, papers, and evidence, in the same latitude, and exercise the like discretion and powers, respecting that subject; and shall decide the claims in question according to the merits of the several cases, and to justice, equity, and the Laws of Nations. The

award of the said Commissioners, or any such three of them, as aforesaid, shall, in all cases, be final and conclusive, both as to the justice of the claim and the amount of the sum to be paid to the claimant; and His Britannic Majesty undertakes to cause the same to be paid to such claimant in specie, without any deduction, at such place or places, and at such time or times, as shall be awarded by the said Commissioners, and on condition of such releases or assignments to be given by the claimant, as by the aforesaid Commissioners may be directed.

And whereas certain merchants and others, His Majesty's subjects, complain that, in the course of the war, they have sustained loss and damage, by reason of the capture of their vessels and merchandise, taken within the limits and jurisdiction of the States, and brought into the ports of the same, or taken by vessels originally armed in ports of the said States, it is agreed that, in all such cases, where restitution shall not have been made agreeably to the tenor of the letter from Mr. Jefferson to Mr. Hammond, dated at Philadelphia, September 5, 1793, a copy of which is annexed to this Treaty, the complaints of the parties shall be, and hereby are, referred to the Commissioners to be appointed by virtue of this article, who are hereby authorized and required to proceed, in the like manner, relative to these as to the other cases committed to them; and the United States undertake to pay to the complainants or claimants, in specie, without deduction, the amount of such sums as shall be awarded to them respectively by the said Commissioners, and at the times and places which, in such awards, shall be specified; and on condition of such releases or assignments to be given by the claimants, as in the said awards may be directed; and, it is further agreed that not only the now existing cases of both descriptions, but also all such as shall exist at the time of exchanging the ratifications of this Treaty, shall be considered as being within the provisions, intent, and meaning, of this article.

ART. 8. It is further agreed that the Commissioners, mentioned in this and in the two preceding articles, shall be respectively paid in such manner as shall be agreed between the two parties, such agreement being to be settled at the time of the exchange of the ratifications of this Treaty. And all other expenses, attending the said Commissioners, shall be defrayed jointly by the two parties, the same being previously ascertained and allowed by the majority of the Commissioners. And in the case of death, sickness, or necessary absence, the place of every such Commissioner, respectively, shall be supplied in the same manner as such Commissioner was first appointed, and the new Commissioners shall take the same oath or affirmation, and do the same duties.

ART. 9. It is agreed that British subjects, who now hold lands in the territories of the United States, and American citizens, who now hold lands in the dominions of His Majesty, shall continue to hold them according to the nature and

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tenure of their respective estates and titles therein; and may grant, sell, or devise, the same, to whom they please, in like manner as if they were natives; and that neither they, nor their heirs or assigns, shall, so far as may respect the said lands, and the legal remedies incident thereto, be regarded as aliens.

ART. 10. Neither the debts due from individuals of the one nation to individuals of the other, nor shares, nor moneys which they may have in the public funds, or in the public or private banks, shall ever, in any event of war or national differences, be sequestered or confiscated; it being unjust and impolitic that debts and engagements contracted and made by individuals, having confidence in each other and in their respective Governments, should ever be destroyed or impaired by national authority, on account of national differences and discontents.

ART. 11. It is agreed, between His Majesty and the United States of America, that there shall be a reciprocal and entirely perfect liberty of navigation and commerce between their respective people, in the manner, under the limitations, and on the conditions, specified in the following articles.

ART. 12. His Majesty consents that it shall and may be lawful, during the time hereinafter limited, for the citizens of the United States to carry to any of His Majesty's islands and ports in the West Indies, from the United States, in their own vessels, not being above the burden of seventy tons, any goods or merchandises, being of the growth, manufacture, or produce, of the said States, which it is or may be lawful to carry to the said islands or ports, from the said States, in British vessels; and that the said American vessels shall be subject there to no other other or higher tonnage duties or charges than shall be payable by British vessels in the ports of the United States; and that the cargoes of the said American vessels shall be subject there to no other or higher duties or charges than shall be payable on the like articles if imported there from the said States in British vessels.

And His Majesty also consents that it shall be lawful for the said American citizens to purchase, load, and carry away, in their said vessels, to the United States, from the said islands and ports, all such articles, being of the growth, manufacture, or produce, of the said islands, as may now by law be carried from thence to the said States in British vessels, and subject only to the same duties and charges, on exportation, to which British vessels and their cargoes are, or shall be, subject, in similar circumstances.

*Provided always,* That the said American vessels do carry and land their cargoes in the United States only; it being expressly agreed and declared, that, during the continuance of this article, the United States will prohibit and restrain the carrying any molasses, sugar, coffee, cocoa, or cotton, in American vessels, either from His Majesty's islands, or from the United States, to any part of the world, except the United States,

reasonable sea stores excepted. *Provided also,* That it shall and may be lawful, during the same period, for British vessels to import from the said islands into the United States, and to export from the United States to the said islands, all articles whatever, being of the growth, produce, or manufacture of the said islands, or of the United States, respectively, which now may, by the laws of the said States, be so imported and exported. And that the cargoes of the said British vessels shall be subject to no other or higher duties, or charges, than shall be payable on the same articles if so imported or exported in American vessels.

It is agreed that this article, and every matter and thing therein contained, shall continue to be in force during the continuance of the war in which His Majesty is now engaged; and also for two years from and after the day of the signature of the preliminary or other articles of peace by which the war may be terminated.

And it is further agreed that, at the expiration of the said term, the two contracting parties will endeavor further to regulate their commerce in this respect, according to the situation in which His Majesty may then find them himself, with respect to the West Indies, and with a view to such arrangements as may best conduce to the mutual advantage and extension of commerce. And the said parties will then also renew their discussions, and endeavor to agree whether, in any, and what, cases neutral vessels shall protect enemy's property; and in what cases provisions and other articles, not generally contraband, may become such. But, in the meantime, their conduct towards each other in these respects shall be regulated by the articles hereinafter inserted on those subjects.

ART. 13. His Majesty consents that the vessels belonging to the citizens of the United States of America shall be admitted, and hospitably received, in all the seaports and harbors of the British territories in the East Indies; and that the citizens of the said United States may freely carry on a trade between the said territories and the said United States in all articles of which the importation or exportation, respectively, to or from the said territories, shall not be entirely prohibited. *Provided, only,* That it shall not be lawful for them, in any time of war between the British Government and any other Power or State whatever, to export from the said territories, without the special permission of the British Government there, any military stores, or naval stores, or rice. The citizens of the United States shall pay for their vessels, when admitted into the said ports, no other or higher tonnage duty than shall be payable on British vessels, when admitted into the ports of the United States. And they shall pay no other or higher duties or charges, on the importation or exportation of the cargoes of the said vessels, than shall be payable on the same articles when imported or exported in British vessels. But it is expressly agreed, that the vessels of the United States shall not carry any of the articles exported by them from the said British territories to any port or place, except to



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some port or place in America, where the same shall be unladen, and such regulations shall be adopted by both parties, as shall, from time to time, be found necessary to enforce the due and faithful observance of this stipulation. It is also understood that the permission granted by this article is not to extend to allow the vessels of the United States to carry on any part of the coasting trade of the British territories; but vessels going with their original cargoes, or part thereof, from one port of discharge to another, are not to be considered as carrying on the coasting trade. Neither is this article to be construed to allow the citizens of the said States to settle or reside within the said territories, or to go into the interior parts thereof, without the permission of the British Government established there; and if any transgression should be attempted against the regulations of the British Government in this respect, the observance of the same shall and may be enforced against the citizens of America in the same manner as against British subjects or others transgressing the same rule. And the citizens of the United States, whenever they arrive in any port or harbor in the said territories, or if they should be permitted, in manner aforesaid, to go to any other place therein, shall always be subject to the laws, government, and jurisdiction, of whatsoever nature, established in such harbor, port, or place, according as the same may be. The citizens of the United States may also touch for refreshment at the island of St. Helena, but subject in all respects to such regulations as the British Government may from time to time establish there.

ART. 14. There shall be, between all the dominions of His Majesty in Europe and the territories of the United States, a reciprocal and perfect liberty of commerce and navigation. The people and inhabitants of the two countries, respectively, shall have liberty, freely and securely, and without hindrance and molestation, to come with their ships and cargoes to the lands, countries, cities, ports, places, and rivers, within the dominions and territories aforesaid, to enter into the same, to resort there, and to remain and reside there, without any limitation of time. Also to hire and possess houses and warehouses for the purposes of their commerce, and, generally, the merchants and traders, on each side, shall enjoy the most complete protection and security for their commerce, but subject always, as to what respects this article, to the laws and statutes of the two countries, respectively.

ART. 15. It is agreed that no other or higher duties shall be paid by the ships or merchandise of the one party in the ports of the other, than such as are paid by the like vessels or merchandise of all other nations. Nor shall any other or higher duty be imposed in one country, on the importation of any articles, the growth, produce, or manufacture of the other, than are, or shall be, payable on the importation of the like articles, being of the growth, produce, or manufacture of any other foreign country. Nor shall any prohibition be imposed on the exportation or importa-

tion of any articles to or from the territories of the two parties, respectively, which shall not equally extend to all other nations.

But the British Government reserves to itself the right of imposing on American vessels, entering into the British ports in Europe, a tonnage duty equal to that which shall be payable by British vessels in the ports of America; and also such duty as may be adequate to countervail the difference of duty now payable on the importation of European and Asiatic goods, when imported into the United States in British or in American vessels.

The two parties agree to treat for the more exact equalization of the duties on the respective navigation of their subjects and people, in such manner as may be most beneficial to the two countries. The arrangements for this purpose shall be made at the same time with those mentioned at the conclusion of the twelfth article of this Treaty, and are to be considered as a part thereof. In the interval, it is agreed that the United States will not impose any new or additional tonnage duties on British vessels, nor increase the now subsisting difference between the duties payable on the importation of any articles in British or in American vessels.

ART. 16. It shall be free for the two contracting parties, respectively, to appoint Consuls for the protection of trade, to reside in the dominions and territories aforesaid; and the said Consuls shall enjoy those liberties and rights which belong to them by reason of their functions. But before any Consul shall act as such, he shall be, in the usual forms, approved and admitted by the party to whom he is sent; and it is hereby declared to be lawful and proper that, in case of illegal or improper conduct towards the laws or Government, a Consul may either be punished according to law, if the laws will reach the case, or be dismissed, or even sent back, the offended Government assigning to the other their reasons for the same.

Either of the parties may except, from the residence of Consuls, such particular places as such party shall judge proper to be so excepted.

ART. 17. It is agreed that, in all cases where vessels shall be captured or detained on just suspicion of having on board enemy's property, or of carrying to the enemy any of the articles which are contraband of war, the said vessel shall be brought to the nearest or most convenient port; and if any property of any enemy should be found on board such vessel, that part only which belongs to the enemy shall be made prize, and the vessel shall be at liberty to proceed with the remainder without any impediment. And it is agreed that all proper measures shall be taken to prevent delay in deciding the cases of ships or cargoes so brought in for adjudication; and in the payment or recovery of any indemnification adjudged or agreed to be paid to the masters or owners of such ships.

ART. 18. In order to regulate what is in future to be esteemed contraband of war, it is agreed

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that, under the, said denomination shall be comprised all arms and implements serving for the purposes of war, by land or sea, such as cannon, muskets, mortars, petards, bombs, grenades, carcasses, saucisses, carriages for cannon, musket rests, bandoliers, gunpowder, match, saltpetre, ball, pikes, swords, headpieces, cuirasses, halberds, lances, javelins, horse furniture, holsters, belts, and, generally, all other implements of war; as, also, timber for ship building, tar or rosin, copper in sheets, sails, hemp and cordage, and, generally, whatever may serve directly to the equipment of vessels, unwrought iron and fir planks only excepted; and all the above articles are hereby declared to be just objects of confiscation, whenever they are attempted to be carried to an enemy.

And whereas the difficulty of agreeing on the precise cases in which alone provisions and other articles, not generally contraband, may be regarded as such, renders it inexpedient to provide against the inconveniences and misunderstandings which might thence arise: it is further agreed that, whenever any such articles, so becoming contraband, according to the existing Laws of Nations, shall, for that reason, be seized, the same shall not be confiscated, but the owners thereof shall be speedily and completely indemnified; and the captors, or, in their default, the Government under whose authority they act, shall pay to the masters or owners of such vessels the full value of all such articles, with a reasonable mercantile profit thereon, together with the freight, and also the demurrage incident to such detention.

And whereas, it frequently happens that vessels sail for a port or place belonging to an enemy, without knowing that the same is either besieged, blockaded, or invested, it is agreed that every vessel, so circumstanced, may be turned away from such port or place, but she shall not be detained, nor her cargo, if not contraband, be confiscated, unless, after notice, she shall again attempt to enter; but she shall be permitted to go to any other port or place she may think proper; nor shall any vessel or goods of either party that may have entered into such port or place before the same was besieged, blockaded, or invested, by the other, and be found therein after the reduction or surrender of such place, be liable to confiscation, but shall be restored to the owners or proprietors thereof.

ART. 19. And that more abundant care may be taken for the security of the respective subjects and citizens of the contracting parties, and to prevent their suffering injuries by the men of war, or privateers of either party, all commanders of ships of war and privateers, and all others the said subjects and citizens, shall forbear doing any damage to those of the other party, or committing any outrage against them; and if they act to the contrary they shall be punished, and shall also be bound, in their persons and estates, to make satisfaction and reparation for all damages, and the interest thereof, of whatever nature the said damages may be.

For this cause, all commanders of privateers, before they receive their commissions, shall here-

after be obliged to give, before a competent judge, sufficient security, by at least two responsible sureties, who have no interest in the said privateer, each of whom, together with the said commander, shall be jointly and severally bound in the sum of fifteen hundred pounds sterling, or if such ships be provided with above one hundred and fifty seamen or soldiers, in the sum of three thousand pounds sterling, to satisfy all damages and injuries which the said privateer, or her officers or men, or any of them, may do or commit during their cruise, contrary to the tenor of this Treaty, or to the laws and instructions for regulating their conduct; and further, that, in all cases of aggressions, the said commissions shall be revoked and annulled.

It is also agreed that, whenever a Judge of a Court of Admiralty of either of the parties shall pronounce sentence against any vessel, or goods, or property, belonging to the subjects or citizens of the other party, a formal and duly authenticated copy of all the proceedings in the cause, and of the said sentence, shall, if required, be delivered to the commander of the said vessel, without the smallest delay, he paying all legal fees and demands for the same.

ART. 20. It is further agreed that both the said contracting parties shall not only refuse to receive any pirates into any of their ports, havens, or towns, or permit any of their inhabitants to receive, protect, harbor, conceal, or assist them in any manner, but will bring to condign punishment all such inhabitants as shall be guilty of such acts or offences.

And all their ships, with the goods or merchandises taken by them, and brought into the port of either of the said parties, shall be seized, as far as they can be discovered, and shall be restored to the owners, or their factors or agents, duly deputed and authorized, in writing, by them, (proper evidence being first given in the Court of Admiralty for proving the property,) even in case such effects should have passed into other hands by sale, if it be proved that the buyers knew, or had good reason to believe or suspect that they had been piratically taken.

ART. 21. It is likewise agreed that the subjects and citizens of the two nations shall not do any acts of hostility or violence against each other, nor accept commissions or instructions so to act from any foreign Prince or State, enemies to the other party; nor shall the enemies of one of the parties be permitted to invite, or endeavor to enlist in their military service, any of the subjects or citizens of the other party; and the laws against all such offences and aggressions shall be punctually executed. And if any subject or citizen of the said parties, respectively, shall accept any foreign commission, or letters of marque, for arming any vessel to act as a privateer against the other party, and be taken by the other party, it is hereby declared to be lawful for the said party to treat and punish the said subject or citizen having such commission or letters of marque, as a pirate.

ART. 22. It is expressly stipulated that neither

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of the said contracting parties will order or authorize any acts of reprisal against the other, on complaints of injuries or damages, until the said party shall first have presented to the other a statement thereof, verified by competent proof and evidence, and demanded justice and satisfaction, and the same shall either have been refused or unreasonably delayed.

ART. 23. The ships of war of each of the contracting parties shall at all times be hospitably received in the ports of the other, their officers and crews paying due respect to the laws and government of the country. The officers shall be treated with that respect which is due to the commissions which they bear; and if any insult should be offered to them by any of the inhabitants, all offenders in this respect shall be punished as disturbers of the peace and amity between the two countries. And His Majesty consents that, in case an American vessel should, by stress of weather, danger from enemies, or other misfortune, be reduced to the necessity of seeking shelter in any of His Majesty's ports, into which such vessel could not in ordinary cases, claim to be admitted, she shall, on manifesting that necessity to the satisfaction of the government of the place, be hospitably received, and be permitted to refit and to purchase, at the market price, such necessaries as she may stand in need of, conformably to such orders and regulations as the government of the place, having respect to the circumstances of each case, shall prescribe. She shall not be allowed to break bulk or unload her cargo, unless the same shall be *bona fide* necessary to her being refitted. Nor shall be permitted to sell any part of her cargo, unless so much only as may be necessary to defray her expenses, and then not without the express permission of the government of the place. Nor shall she be obliged to pay any duties whatever, except only on such articles as she may be permitted to sell for the purpose aforesaid.

ART. 24. It shall not be lawful for any foreign privateers (not being subjects or citizens of either of the said parties) who have commissions from any other Prince or State in enmity with either nation, to arm their ships in the ports of either of the said parties, nor to sell what they have taken, nor in any other manner to exchange the same; nor shall they be allowed to purchase more provisions than shall be necessary for their going to the nearest port of that Prince or State from whom they obtained their commissions.

ART. 25. It shall be lawful for the ships of war and privateers belonging to the said parties, respectively, to carry whithersoever they please, the ships and goods taken from their enemies, without being obliged to pay any fee to the officers of the Admiralty, or to any Judges whatever; nor shall the said prizes, when they arrive at, and enter the ports of, the said parties, be detained or seized; neither shall the searchers, or other officers of those places, visit such prizes, (except for the purpose of preventing the carrying of any part of the cargo thereof on shore, in any manner contrary to the established laws of revenue, navigation, or commerce,) nor shall such officer take

cognizance of the validity of such prizes; but they shall be at liberty to hoist sail and depart as speedily as may be, and carry their said prizes to the place mentioned in their commissions or patents, which the commanders of the said ships of war or privateers shall be obliged to show. No shelter or refuge shall be given in their ports to such as have made a prize upon the subjects or citizens of either of the said parties; but, if forced by stress of weather or dangers of the sea, to enter therein, particular care shall be taken to hasten their departure, and to cause them to retire as soon as possible. Nothing in this Treaty contained shall, however, be construed or operate, contrary to former and existing public Treaties with other Sovereigns or States. But the two parties agree that, while they continue in amity, neither of them will, in future, make any Treaty that shall be inconsistent with this or the preceding article.

Neither of the said parties shall permit the ships or goods belonging to the subjects or citizens of the other to be taken within cannon shot of the coast, nor in any of the bays, ports, or rivers of their territories, by ships of war, or others having commission from any Prince, Republic, or State whatever. But, in case it should so happen, the party whose territorial rights shall thus have been violated, shall use his utmost endeavors to obtain from the offending party full and ample satisfaction for the vessel or vessels so taken, whether the same be vessels of war or merchant vessels.

ART. 26. If at any time a rupture should take place (which God forbid) between His Majesty and the United States, the merchants, and others, of each of the two nations, residing in the dominions of the other, shall have the privilege of remaining and continuing their trade, so long as they behave peaceably, and commit no offence against the laws; and in case their conduct should render them suspected, and the respective Governments should think proper to order them to remove, the term of twelve months from the publication of the order, shall be allowed them for that purpose, to remove, with their families, effects, and property; but this favor shall not be extended to those who shall act contrary to the established laws; and, for greater certainty, it is declared that such rupture shall not be deemed to exist while negotiations for accommodating differences shall be depending, nor until the respective Ambassadors or Ministers, if such there shall be, shall be recalled, or sent home, on account of such differences, and not on account of personal misconduct, according to the nature and degrees of which, both parties retain their rights, either to request the recall, or immediately to send home the Ambassador or Minister of the other; and that without prejudice to their mutual friendship and good understanding.

ART. 27. It is further agreed that His Majesty and the United States, on mutual requisitions, by them, respectively, or by their respective Ministers or officers authorized to make the same, will deliver up to justice all persons who, being charged

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with murder or forgery committed within the jurisdiction of either, shall seek an asylum within any of the countries of the other: *Provided*, That this shall only be done on such evidence of criminality, as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the offence had there been committed. The expense of such apprehension and delivery shall be borne and defrayed by those who make the requisition and receive the fugitive.

ART. 28. It is agreed that the first ten articles of this Treaty shall be permanent, and that the subsequent articles, except the twelfth, shall be limited in their duration to twelve years, to be computed from the day on which the ratifications of this Treaty shall be exchanged, but subject to this condition, that, whereas the said twelfth article will expire, by the limitation therein contained, at the end of two years from the signing of the preliminary or other articles of peace which shall terminate the present war in which His Majesty is engaged, it is agreed that proper measures shall, by concert, be taken for bringing the subject of that article into amicable Treaty and discussion, so early before the expiration of the said term, as that new arrangements on that head may, by that time, be perfected, and ready to take place. But, if it should unfortunately happen, that His Majesty and the United States should not be able to agree on such new arrangements, in that case all the articles of this Treaty, except the first ten, shall then cease and expire together.

Lastly, This Treaty, when the same shall have been ratified by His Majesty and by the President of the United States, by and with the advice and consent of their Senate, and the respective ratifications mutually exchanged, shall be binding and obligatory on His Majesty and on the said States, and shall be by them, respectively, executed and observed, with punctuality and the most sincere regard to good faith. And whereas it will be expedient, in order the better to facilitate intercourse and obviate difficulties, that other articles be proposed and added to this Treaty, which articles, from want of time and other circumstances, cannot now be perfected, it is agreed that the said parties will, from time to time, readily treat of and concerning such articles, and will sincerely endeavor so to form them as that they may conduce to mutual convenience, and tend to promote mutual satisfaction and friendship; and that the said articles, after having been duly ratified, shall be added to, and make a part of, this Treaty.

In faith whereof, we, the undersigned, Ministers Plenipotentiary of his Majesty the King of Great Britain and the United States of America, have signed this present Treaty, and have caused to be affixed thereto the seal of our arms.

Done at London, this nineteenth day of November, one thousand seven hundred and ninety-four.

GRENVILLE, [L. s.]  
JOHN JAY. [L. s.]

## TREATY WITH GREAT BRITAIN.

[Communicated to the Senate, May 5, 1796.]

UNITED STATES, May 5, 1796.

*Gentlemen of the Senate:*

I lay before you, for your consideration and advice, an explanatory article proposed to be added to the Treaty of Amity, Commerce, and Navigation, between the United States and Great Britain; together with a copy of the full power to the Secretary of State to negotiate the same.

G. WASHINGTON.

*Mr. Bond to Mr. Pickering.*

PHILADELPHIA, March 26, 1796.

The undersigned, His Britannic Majesty's Chargé des Affaires, has the honor of representing to the Secretary of State of the United States, that the King, his master, has been informed that a Treaty was concluded on the 3d of August last, between the United States and certain tribes of Indians living on the northwestern frontier of those States, which Treaty appears to His Majesty to contain certain stipulations repugnant to the due execution of the provisions of the Treaty between His Majesty and the United States of America, signed at London on the 19th of November, 1794, and particularly that, by the eighth article of the said Treaty between the United States and the Indians above-mentioned, it is agreed that no person shall be admitted to reside among, or to trade with, those tribes of Indians, unless they be furnished with a license for that purpose from the Government of the United States; and that any person so trading without such license, shall be delivered up by the Indians to a superintendent appointed by the Government of the United States, to be dealt with according to the laws of the United States: whereas the third article of the Treaty of Amity, Commerce, and Navigation, concluded between His Majesty and the United States, expressly provides, "that it shall, at all times, be free to His Majesty's subjects and to the citizens of the United States, and also to the Indians dwelling on either side of the boundary line, freely to pass and repass, by land or inland navigation, into the respective territories and countries of the two parties on the Continent of America, [the country within the limits of the Hudson's Bay Company only excepted,] and to navigate all the lakes, rivers, and waters thereof, and freely to carry on trade and commerce with each other."

The undersigned is directed to state that the King, his master, is fully persuaded that the said Indian Treaty was concluded in consequence of instructions given by the Government of the United States at a time when that Government had not yet been apprised of the terms and stipulations of the Treaty entered into by the respective Plenipotentiaries at London, on the 19th of November, 1794. Even if any doubt could arise on this subject in His Majesty's mind, His Majesty,

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in claiming the full execution of the said last mentioned Treaty, would rely, with the utmost confidence, on the justice and good faith of the Government of the United States, and on the universally admitted rule, of the Law of Nations, that no stipulations of existing Treaties can be superseded by any engagements subsequently concluded by one of the parties with another State or nation; but when the particular circumstances connected with this important subject, and the influence which they may have on the lives and properties of so many, both of His Majesty's subjects and of the citizens of the United States, are fairly and impartially considered, His Majesty can entertain no doubt that the Government of the United States will be equally anxious with himself that all possible misconstruction or doubt on this point, on the part either of His Majesty's subjects, or of the citizens of the United States, and still more on the part of the Indians, should be completely and authentically removed: and that this may be done with as little delay as possible, in order that less time may be left for the effect of any misrepresentations, which evil designing persons may have labored to impress on the minds of those whose situation renders them peculiarly liable to such impressions, His Majesty trusts, therefore, that the Government of the United States will readily agree in the propriety of an explanation, which, under the circumstances above stated, appears to be of such indispensable necessity; and the undersigned is directed to propose, on His Majesty's part, that an article should for that purpose be added to the Treaty of Amity, Commerce, and Navigation, between His Majesty and the United States, so as to form a part thereof, conformably to the provisions contained in the 29th article of that instrument, by which it shall be declared that no Treaty subsequently concluded by either party with any other State or nation, whether European or Indian, can be understood in any manner to derogate from the rights of free intercourse and commerce secured by the aforesaid Treaty of Amity, Commerce, and Navigation, to the subjects of His Majesty, and to the citizens of the United States, and to the Indians on both sides of the boundary line; but that all the said persons shall remain at full liberty freely to pass and repass into the countries on either side of the said boundary line, and to carry on their trade and commerce with each other freely and without restriction, according to the stipulations of the third article of the said Treaty, which stipulations are, by the said Treaty, declared to be permanent.

If this measure, which appears to His Majesty conformable to the principles of justice and good faith, and indispensably required by the circumstances of the case, should meet the approbation of the Government of the United States, the undersigned is instructed and authorized to arrange the terms of such article with any person who may be appointed by the Government of the United States for the purpose, and to conclude and sign the same, subject to the ratification of the King, his master: His Majesty being always

desirous to take the earliest and most effectual means of removing any cause of uneasiness between the two Governments, and to maintain with the United States the most uninterrupted harmony and good understanding.

P. BOND.

GEORGE WASHINGTON, PRESIDENT OF THE UNITED STATES OF AMERICA, TO ALL WHO SHALL SEE THESE PRESENTS, *greeting*:

It having been represented by the Chargé des Affaires of His Britannic Majesty to the United States, that the eighth article of the Treaty of Peace and Friendship, concluded on the 3d day of August last, between the United States and certain tribes of Indians, living on the Northwest-ern frontier of these States, appears to His Majesty to contain stipulations repugnant to the provisions of the third article of the Treaty of Amity, Commerce, and Navigation, between the United States and His Britannic Majesty, signed at London on the 19th of November, 1794: And it being the sincere desire of the United States, as well as of His Britannic Majesty, to prevent the inconveniences which might arise from any misconstruction or doubt on the subject of the said two articles: And for this purpose, deeming it expedient to declare their understanding thereof by an explanatory article: Now, be it known, that, pursuant to the laws of the United States, I have intrusted, and do hereby intrust, and give full power to, Timothy Pickering, Esq., Secretary of State of the United States, to negotiate and agree, on the part of the United States, with the Commissioner named on the part of His Britannic Majesty, on an article explanatory of the understanding of the two parties on the subject of the two articles aforementioned; such explanatory article, when ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty, and the ratifications mutually exchanged, to be added to, and constitute a permanent part of, the said Treaty of Amity, Commerce, and Navigation, between the United States and His Britannic Majesty.

In testimony whereof, I have caused these letters to be made patent, and the seal of the United States to be hereunto affixed. Given under my hand, the fourth day of [L. s.] May, in the year of our Lord one thousand seven hundred and ninety-six, and of the independence of the United States of America the twentieth.

G. WASHINGTON.

#### EXPLANATORY ARTICLE.

Whereas, by the third article of the Treaty of Amity, Commerce, and Navigation, concluded at London, on the nineteenth day of November, one thousand seven hundred and ninety-four, between His Britannic Majesty and the United States of America, it was agreed that it should at all times be free to His Majesty's subjects, and to the citizens of the United States, and also to the In-



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dians dwelling on either side of the boundary line assigned by the Treaty of Peace to the United States, freely to pass and repass by land or inland navigation, into the respective territories and countries of the two contracting parties on the Continent of America, (the country within the limits of the Hudson's Bay Company only excepted,) and to navigate all the lakes, rivers, and waters, thereof, and freely to carry on trade and commerce with each other, subject to the provisions and limitations contained in the said article: And whereas, by the eighth article of the Treaty of Peace and Friendship, concluded at Greenville, on the 3d day of August, 1795, between the United States and the nations or tribes of Indians called the Wyandots, Delawares, Shawanees, Ottawas, Chippewas, Pattawatamies, Miamies, Eel Rivers, Weas, Kickapoos, Piankeshaws, and Kaskaskias, it was stipulated that no person should be permitted to reside at any of the towns or hunting camps of the said Indian tribes, as a trader, who is not furnished with a license for that purpose under the authority of the United States; which latter stipulation has excited doubts whether in its operation it may not interfere with the due execution of the said third article of the Treaty of Amity, Commerce, and Navigation: And it being the sincere desire of His Britannic Majesty and of the United States that this point should be so explained as to remove all doubts, and promote mutual satisfaction and friendship, and for this purpose, His Britannic Majesty having named for his Commissioner, Phineas Bond, Esq., His Majesty's Consul General for the Middle and Southern States of America, (and now His Majesty's Chargé des Affaires to the United States,) and the President of the United States having named for their Commissioner, Timothy Pickering, Esq., Secretary of State of the United States, to whom, agreeably to the laws of the United States, he has intrusted this negotiation, they, the said Commissioners, having communicated to each other their full powers, have, in virtue of the same, and conformably to the spirit of the last article of the said Treaty of Amity, Commerce, and Navigation, entered into this explanatory article, and do, by these presents, explicitly agree and declare, that no stipulations in any Treaty subsequently concluded by either of the contracting parties with any other State or nation, or with any Indian tribe, can be understood to derogate in any manner from the rights of free intercourse and commerce secured by the aforesaid third article of the Treaty of Amity, Commerce, and Navigation, to the subjects of His Majesty, and to the citizens of the United States, and to the Indians dwelling on either side of the boundary line aforesaid; but that all the said persons shall remain at full liberty freely to pass and repass, by land or inland navigation, into the respective territories and countries of the contracting parties on either side of the said boundary line, and freely to carry on trade and commerce with each other, according to the stipulations of the said third article of the Treaty of Amity, Commerce, and Navigation.

This explanatory article, when the same shall have been ratified by His Majesty, and by the President of the United States, by and with the advice and consent of their Senate, and the respective ratifications mutually exchanged, shall be added to, and make a part of, the said Treaty of Amity, Commerce, and Navigation, and shall be permanently binding upon His Majesty and the United States.

In witness whereof, we, the said Commissioners of His Majesty, the King of Great Britain and the United States of America, have signed this present explanatory article, and thereto affixed our seals. Done at Philadelphia, this fourth day of May, in the year of our Lord one thousand seven hundred and ninety-six.  
P. BOND,  
TIMOTHY PICKERING.

## TREATY WITH SPAIN.

[Communicated to the Senate, Feb. 26 and 29, 1796.]  
UNITED STATES, *February 26, 1796.*

*Gentlemen of the Senate:*

I send, herewith, the Treaty concluded on the 27th of October last, between the United States and Spain, by their respective Plenipotentiaries.

The communications to the Senate, referred to in my message of the 16th of December, 1793, contain the instructions to the Commissioners of the United States, Messrs. Carmichael and Short, and various details relative to the negotiations with Spain. Herewith I transmit copies of the documents authorizing Mr. Pinckney, the Envoy Extraordinary from the United States to the Court of Spain, to conclude the negotiation, agreeable to the original instructions above mentioned; and to adjust the claims of the United States for the spoiliations committed by the armed vessels of His Catholic Majesty on the commerce of our citizens.

The numerous papers exhibiting the progress of the negotiation, under the conduct of Mr. Pinckney, being in the French and Spanish languages, will be communicated to the Senate as soon as the translations which appear necessary shall be completed.

G. WASHINGTON.

UNITED STATES, *February 29, 1796.*

*Gentlemen of the Senate:*

I send, herewith, the papers relating to the negotiation of the Treaty with Spain, to which I referred in my Message of the 26th instant.

G. WASHINGTON.

GEORGE WASHINGTON, PRESIDENT OF THE UNITED STATES OF AMERICA, TO THOMAS PINCKNEY, *greeting:*

Reposing especial trust and confidence in your integrity, prudence, and ability, I have nominated, and, by and with the advice and consent of the

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Senate, do appoint, you, the said Thomas Pinckney, Envoy Extraordinary from the United States of America to the Court of His Catholic Majesty; authorizing you, hereby, to do and perform all such matters and things as to the said place or office doth appertain, or as may be duly given you in charge hereafter, and the said office to hold and exercise during the pleasure of the President of the United States for the time being.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed. Given under my hand, at the city of Philadelphia, the twenty-fourth day of November, in the year of our Lord one thousand seven hundred and ninety-four, and of the independence of the United States of America the nineteenth.

G. WASHINGTON.

By the President:  
EDM. RANDOLPH,  
*Secretary of State.*

GEORGE WASHINGTON, PRESIDENT OF THE UNITED STATES OF AMERICA,

*To all and singular whom these presents shall concern, greeting:*

Know ye, that, for the purpose of confirming, between the United States of America and His Catholic Majesty, perfect harmony and a good correspondence, and removing all grounds of dissatisfaction, and from a special trust and confidence in the integrity, prudence, and abilities of Thomas Pinckney, I have nominated, and, by and with the advice and consent of the Senate, appointed, the said Thos. Pinckney Envoy Extraordinary and sole Commissioner Plenipotentiary of the United States of America to His Catholic Majesty; hereby giving and granting to him full, and all manner of, power and authority, as also a general and special command at the Court of his said Majesty, for, and in the name of, the United States, to meet, confer, treat, and negotiate, with the Ministers, Commissioners, Deputies, or Plenipotentiaries, of his said Majesty; being furnished with sufficient authority of and concerning the navigation of the river Mississippi, and such other matters relative to the confines of the territories of the United States and His Catholic Majesty, and the intercourse to be had thereon, as the mutual interests and general harmony of neighboring and friendly nations require to be precisely adjusted and regulated; and of and concerning the general commerce between the United States and the kingdoms and dominions of His Catholic Majesty; and to conclude and sign a Treaty or Treaties, Convention or Conventions, thereon; transmitting the same to the President of the United States of America for his final ratification, by and with the advice and consent of the Senate of the United States.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed. Given under my hand, at the city of Philadelphia, this twenty-fourth day [L. S.] of November, in the year of our Lord

one thousand seven hundred and ninety-four, and of the independence of the United States of America the nineteenth.

G. WASHINGTON.

By the President:  
EDM. RANDOLPH,  
*Secretary of State.*

GEORGE WASHINGTON, PRESIDENT OF THE UNITED STATES OF AMERICA,

*To all and singular whom these presents shall concern, greeting:*

Know ye, that, for the purpose of confirming, between the United States of America and His Catholic Majesty, perfect harmony and a good correspondence, and of removing all grounds of dissatisfaction, and from a special trust and confidence in the integrity, prudence, and abilities, of Thomas Pinckney, whom I have nominated, and, by and with the advice and consent of the Senate, appointed, Envoy Extraordinary of the United States to His Catholic Majesty, I do, hereby, give and grant to him, the said Thomas Pinckney, full, and all manner of, power and authority, as also a general and special command at the Court of his said Majesty, for, and in the name of, the United States, to meet and confer with the Ministers, Commissioners, or Deputies, of his said Majesty, being furnished with sufficient authority, whether singly and separately, or collectively and jointly, and with them to agree, treat, consult, and negotiate, of and concerning all matters and causes of difference subsisting between the United States and his said Majesty, relative to the instructions of his said Majesty, or of any of the tribunals or authorities of his said Majesty, to his ships of war and privateers, of whatsoever date, as well as of and concerning restitution or compensation in the cases of capture or seizure made of the property of the citizens of the United States by the said ships of war and privateers, and retribution for the injuries received therefrom by any citizen of the United States; and to conclude and sign a Treaty or Treaties, Convention or Conventions, touching the premises, transmitting the same to the President of the United States for his final ratification, by and with the advice and consent of the Senate of the United States.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed. Given under my hand, at the city of Philadelphia, this twenty-fourth day [L. S.] of November, in the year of our Lord one thousand seven hundred and ninety-four, and of the independence of the United States of America the nineteenth.

G. WASHINGTON.

By the President:  
EDM. RANDOLPH,  
*Secretary of State.*

*The Secretary of State to Thomas Pinckney.*  
PHILADELPHIA, November 3, 1794.

DEAR SIR: Mr. Bayard, who sails on Thursday, as an agent for those who have suffered by

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British depredations, will be charged with both private and public despatches from me to you. I drop you this line to prepare you for a mission, which the President has prepared for you, as Envoy Extraordinary to Madrid. I beg you, immediately upon the receipt of this, to make any arrangements which may seem expedient, before you quit London. The business relates to the Mississippi; will be temporary; and, under present circumstances, probably not dilatory. You will necessarily conclude that your return to London upon your former footing will be a thing of course.

I have the honor to be, dear sir, with sincere esteem and true respect your most obedient servant,

EDMUND RANDOLPH.

*Extract of a letter from the same to the same, dated November 8, 1794.*

"The failure of the Senate to meet at the day appointed, and the continuance of that failure to the very moment of Mr. Bayard's departure, disable me from sending you a commission, and its appendages, in the quality of Envoy Extraordinary to Madrid. I hope, however, that my letter of the 3d instant will have prepared you, in some measure, for this new mission, before its duplicate, now sent, shall arrive."

*Extract of a letter from the same to the same, dated Philadelphia, November 28, 1794.*

"In my two last letters of the 3d and 8th instant, duplicates of which have been forwarded, I prepared you for a temporary transference of your services from London to Madrid. The determination of the President is now confirmed by the approbation of the Senate, as you will perceive from the commission, which accompanies this letter.

"Your powers inform you, in general terms, of the subjects with which you are charged. The development of the principles upon which they are to be contended for, will be found in the documents of which Mr. Short is possessed. But, for the sake of enabling you to avail yourself of every opportunity, before you reach Madrid, I send a statement of our pretensions, as they were laid before Congress, comprehending Mr. Jay's discussions with Mr. Gardoqui, and the instructions and arguments transmitted to Messrs. Carmichael and Short. In these the President sees no reason for a change."

MADRID, July 21, 1795.

MY DEAR SIR: I arrived at this metropolis on the 28th of the last month, but finding the Court were still at Aranjuez, I proceeded to that place; their residence there, however, was so short after my arrival that I could do no more than obtain an introduction to the Duke de la Alcudia. I returned to Madrid on the 2d of July, where the Court remained only ten days; of course, every thing was in a kind of hurry and confusion un-

favorable to business. I however passed through all my ceremonials, and have had two conferences with the Minister, the result of which is, that they are still anxious for further delay, which is to them equivalent to a cession of our rights, so long as we shall acquiesce therein, they being in possession of the object of controversy. The Duke de la Alcudia received me with politeness, but, at the same time, informed me that he could come to no conclusion on the principal points of my mission until he should have received an answer to the propositions which he directed the Spanish Chargé des Affaires to make our Government, in America, in the months of July and August last. I told him, in reply, that Mr. Jaudenes did not conceive himself authorized to make any direct propositions to the President so late as the month of March last, notwithstanding he had received the instructions, to which the Duke alluded, and therefore, that it was in vain to wait for an answer to propositions which, without further instructions, could not be brought forward in a mode through which any answer could be given to them.

He seemed to doubt the possibility of M. Jaudenes's not having made the proposals he had directed, and said he expected an answer thereto daily, and would immediately apprise me thereof. I then told him that I had undoubted proof of the matter being as I had stated, having in my possession a letter from M. Jaudenes to you, ascertaining the fact, with a copy of which, at his request, I promised to furnish him. I accordingly enclosed it to him in a note, the copy of which is herewith. The Court leaving Madrid for San Ildefonso within a few days, I have received no answer thereto. I cannot help here lamenting that, when you enclosed to Mr. Short Mr. Jaudenes's letter containing these proposals, (however informally expressed,) you had not stated the sense of our Government thereon, and that, consequently, I must either acquiesce in a further delay, or take upon myself to determine what will be the resolution of our Government upon a question of great importance. It is true that I can deduce, by inference from the instructions heretofore given, and from reasoning upon our situation and circumstances, that the United States will not guaranty the possessions of Spain in America, and will not consent to purchase what is their right. But, upon a proposition so new, it would have been desirable that I could have stated to the Spanish Government that I was directly instructed on this head, in case any such proposal should be made here. I conceive, however, that it is of such importance that our controversy with this Government should be determined during the present war, (which, I think, will not be continued another campaign,) and it is also so essential to our internal harmony that the President should be made acquainted with the real intentions of this Court, during the next session of Congress, that I mean to urge the decision as strongly as propriety and attention to my instructions on the subject will admit. Mr. Short has already informed you of the line which this

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Court has determined to pursue to us, respecting navigation, during the present war, and of the reasons which prevent them from entering into written stipulations on this subject. This line of conduct, while observed, is as favorable to us as we could expect; but, as no general orders can be published on the occasion, individual cases will occasionally occur, in which it will be necessary to apply to this Administration for a compliance with their verbal agreement; and to these the Duke promises to pay immediate attention. This took place in a joint conference, which Mr. Short and I had with him, when we thought it prudent to state to him what his engagements were on that subject; to which statement he readily acquiesced, (namely, that the stipulations on this subject in our Treaty with France should be observed.) In addition to the propositions said to have been directed to be made to our Government, as above stated, I find, in conversation with the Duke, that another object is started, which, I presume, may be brought forward, still further to retard the negotiation. In our first conversation, he said that our negotiation seemed so connected with their accommodation with France, that it would be best to let them proceed together. When I observed that I could not discover the connexion, he did not then explain himself to my comprehension, but, in a joint conference with Mr. Short and myself, he expressed a wish to establish a triple alliance between France, Spain, and ourselves. He received the answer from Mr. Short, which he had previously given him, with great propriety, on former occasions, of a nature somewhat similar, which is, in substance, that a generous and friendly conduct would insure to both parties all the benefits of an alliance, and that the first object was to establish our rights on just principles, when objects of mutual convenience and accommodation might with propriety be resorted to. Mr. Monroe has informed you of the intentions of the French Government with respect to our negotiation here. I had no conversation with them on the subject, as I conceived the business placed on as good a footing as I could desire, and, since I have been here, I conclude that the French Commissioners have complied with their instructions; the Duke having informed me that he had certain information that our Minister at Paris opposed an accommodation between Spain and France, unless our rights were previously acknowledged by the former.

The repairs which so long a journey had rendered necessary for my carriage have detained me here a few days beyond the departure of the Court; to-morrow, however, I set out to join them, and will inform you of the result of my next conference by the earliest opportunity.

I have received all possible assistance and information from Mr. Short, since I have been here. He has placed in my hands all the papers of which he was possessed, relative to the objects of my mission. I am personally obliged to him for the readiness and friendly good will with which he has rendered me this service, and the United States are, I conceive, much indebted to him for

the assiduity and ability with which he has conducted his negotiations at this Court. I do not conceive that it can be necessary for me to remain here until an answer can be obtained to this letter, as it must be decided long before that time, whether this Court means to proceed in their system of delay, or whether they will yield to us our rights. In either case, it will be necessary that you should have a decided answer during the ensuing session of Congress. After that answer is obtained, my present idea is, that my presence here will be unnecessary; at all events, however, I will observe the directions contained in the ciphered part of your letter of 28th of November, 1794. I would however, submit to you the propriety of an explicit instruction to whoever may be here, on the subject of alliance and guaranty, if it should not have been done previous to your receipt hereof, as, from the circumstances which have already occurred, I do not expect that it will be brought before our Government soon, in an official manner, and, if the instructions should arrive too late to be of service, they can do no harm.

I have the honor to be, dear sir, with great respect, your obedient and faithful servant,

THOMAS PINCKNEY.

The SECRETARY OF STATE.

[Enclosed in the foregoing despatch.]

MADRID, *July 10, 1795.*

MONSIEUR LE DUC: In conformity with the promise which I had the honor of making to your excellency, I herewith send the letter written by the *Chargé des Affaires* of His Catholic Majesty to the Secretary of State of the United States of America, dated the 28th of March, 1795, by which it is unquestionable that, at that time, M. Jaudenes did not think himself authorized to make propositions to the President of the United States, in consequence of your excellency's instructions, although he there acknowledges the receipt of your excellency's letter of the 26th of July, which, according to the communication with which you honored Mr. Short on the —, contained his instructions on the propositions which the Court of Spain thought proper to make to the Executive power of the United States, and although he has likewise written to the Secretary of State of the United States that your excellency had signified, by a letter of the 21st of November, 1794, that you had nothing to add to your informations of the said 26th of July, and of your duplicates of the 6th and 15th of August. This being the case, I beg your excellency to be pleased to inform me whether M. Jaudenes has properly understood his instructions of the 26th of July, and whether the five articles which he cites, under the term of insinuations, are such as His Majesty thought proper to propose to the United States.

I have the honor to be, with the highest consideration and respect, M. le Duc, your most humble and most obedient servant,

THOMAS PINCKNEY.

*Treaty with Spain.**Mr. Pinckney to the Secretary of State.*

SAN ILDEFONSO, August 11, 1795.

MY DEAR SIR: By my letter of the 21st July, it must have appeared to you that this Court was proceeding in that system of delay which it seems hitherto to have adopted, the Minister having referred me, in my first conferences, to the answer expected to Mr. Jaudenes's proposals. As a means of obviating this, I thought it best to put a stop to all expectations on that subject, and, therefore, at the first conference I had with the Duke at this place, I told him candidly, that, however full my powers were, (which he must have seen,) and however amicably inclined the United States were to this country, I did not think myself authorized to insert in any Treaty, to be formed with this country, a guarantee of their possessions in America. With this declaration the Duke appeared much mortified, conceiving, as was natural, that the proposals, though informally made, had been considered and rejected by our Government. I then proceeded to state how ready the United States were to enter into every other friendly stipulation, and urged the arguments that occurred to me for an immediate settlement of the points in controversy; the result was, that he promised to proceed with me in our negotiations concerning the limits, &c., without the guarantee. I urged the fixing a day to proceed to the business, which he said was impossible, as he wished some further information, but promised to appoint an early day. This, however, not immediately taking place, I requested, in three or four days, a further conference, in which he still urged that he was not prepared, but said that he would very shortly enter into the business; and, from his conversation, I collected that he had really been looking into the subject.

On Saturday last it was pretty generally known here that the terms of a Treaty of Peace were settled between this country and France. On Sunday, at a conference with the Duke, on my urging our progress, he told me that our business should be very speedily settled to our satisfaction; that I might consider it perfectly in that point of light, as His Majesty was determined to sacrifice something of what he considered as his right, to testify his good will to us. You, sir, have seen so much of this business as to know how to appreciate those circumstances; my present opinion is, that the new position of Spain with respect to England will induce them to come to a decision with us. You may be assured, sir, that I shall omit neither assiduity nor such arguments as I am furnished with to accelerate the determination.

Having short information of a vessel ready to sail from Bilbao, I thought it advisable to give you this hasty sketch of our present position, which otherwise I should have deferred till after the conference I mean to request to-morrow, and in which I hope something more decisive will be fixed.

I am, with sentiments of the utmost respect and

sincerest esteem, my dear sir, your faithful and obedient servant,

THOMAS PINCKNEY.

To the SECRETARY OF STATE.

*Mr. Pinckney to the Secretary of State.*

SAN ILDEFONSO, October 1, 1795.

DEAR SIR: I am not favored with any of your letters, since I left England; but, as the President may desire to know the progress of the negotiation with which I am charged, previous to the meeting of Congress, I herewith send you the material parts of what has passed in writing, from whence he will be able to form his own opinion of our prospects in this business. It will be unnecessary to state to you the purport of the various oral conferences I have had with the Prince de la Paix (late Duke of Alcudia) on this occasion, as they were preparatory to the written documents I now enclose, which may be considered as the result of those conferences so far as they extend. I will not take up your time with conjectures of what may probably be the issue of this negotiation; for where measures are adopted from the fluctuation of occurrences and not from system, conjectures must be wildly hazarded.

You may be assured that nothing within the scope of my abilities shall be wanting to induce a line of steady conduct towards us, and I conclude that, in the course of another month, it will be decided whether this business can be concluded or not; in either event it will be unnecessary for me to remain here, and I therefore propose setting out for England in that space, unless events, which I do not now foresee, should require a longer residence here.

When Mr. Short leaves this Court, he intends, in pursuance of your authority, to appoint Mr. Charles Rutledge as Chargé des Affaires during his absence. This young gentleman, who accompanied me here as secretary, and with whose conduct I am perfectly satisfied, is son of the Chief Justice of South Carolina, whom I believe you know. Mr. Short says his appointment will be only at the rate of £300 per annum. I therefore beg leave to represent to you that it is impossible for him to live in a decent style on that salary, and would, therefore, submit the propriety of an augmentation. That sum may be sufficient for a secretary living with a Minister, and the principal part of his expenses borne by him, but it is beyond question, that a person cannot attend on this Court without expending far beyond that sum.

I am, with sentiments of consideration and respect, dear sir, your faithful and obedient servant,

THOMAS PINCKNEY.

The SECRETARY OF STATE.

[Enclosures in the foregoing despatch of Mr. Pinckney.]

*Mr. Pinckney to the Duke of Alcudia.*

SAN ILDEFONSO, July 29, 1795.

MONSIEUR LE DUC: In running over the "ordenanza de corso" of His Majesty, dated the 1st



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of May, 1794, I perceive, with pleasure, the sentiments of justice which dictated the 11th article, which appears to me conformable with the engagements entered into by the Court of Spain, by concurring in the terms of the armed neutrality of the last war. The spirit of this article, if I mistake not, amounts to this: that Spain, faithful to the principles she had adopted on neutral rights, was ready to act in conformity to these principles, but that prudence required a previous knowledge whether France, who had also adopted the articles of the armed neutrality, would act in the same manner. That, therefore, she permitted her vessels of war to bring into her ports neutral vessels laden with produce belonging to France, by way of precaution, and only until this point should be cleared up; but that, as soon as it was ascertained that France would act in conformity to these principles towards a neutral nation, she would adopt the sentiments in conformity to her engagements, by conducting in the same manner with regard to that nation. Now, if I am not mistaken in the sense of the said article, I think I may, with propriety, propose to your excellency that the King be pleased to give orders that his ships of war and privateers bring no longer into Spanish ports, vessels of the United States of America, laden with produce belonging to Frenchmen.

Seeing that your excellency has been informed of the Treaty existing between the United States and France, which establishes these principles between the two nations; seeing that the Government of France has given the most unequivocal assurances to ours that it will observe this Treaty; and seeing that it acts in conformity to its promises, I conceive that it will not be necessary for me to detail here to your excellency all the inconveniences which result from the practice of putting merchant vessels out of their course, and carrying them to ports to which they were not destined, merely for the purpose of sending them away after they have been brought in.

From the delays, waste, and inevitable expenses arising therefrom, from the bad treatment of which our citizens complain of receiving sometimes from the crews of the privateers, and, above all, from the spite and animosity which often follow between the individuals of two nations between whom it is the ardent desire of the United States to cultivate the most perfect harmony and friendship, not doubting but that your excellency entertains corresponding sentiments of good will towards my nation, I have no apprehension that a conduct towards us will be continued, which, without being of the least advantage to the interests of the King, is very prejudicial to the United States.

I pray your excellency to accept the expression of respect and high consideration with which I have the honor to be, &c.

Not knowing whether your excellency has at the Sitio a copy of our Treaty with France, I take the liberty to enclose the article on the contraband of war.

*Mr. Pinckney to the Duke of Alcudia.*

SAN ILDEFONSO, August 6, 1795.

MONSIEUR LE DUC: As in the cases not comprehended in the "ordenanza de corso" of His Majesty, but which are to be determined (according to the agreement your excellency made with Mr. Short) by the principles of our Treaty with France, it appears to me there will be less inconvenience to all parties in preventing judgments contrary to the Treaty, than if that agreement were changed, after I take the liberty of laying before your excellency the cases as they arrive, in order that your excellency may give the proper orders. With this view I have the honor to inform you that the brigantine Maria, of Boston, laden with provisions belonging to France, was taken into the port of Santander, on the 11th of June, where she is now detained; and I request your excellency to give orders to enable her to pursue her voyage. The long detention which this vessel has already undergone, with a perishable cargo, will, I hope, plead my excuse with your excellency for my pressing solicitation to have a speedy decision on this affair. I also take the liberty to inform M. le Duc of the circumstances relative to the American ship Liberty, of New York, according to the advices I have received, which are, that this vessel, being at Bordeaux, was freighted by an American house to carry a cargo to Bilbao, consisting partly of whale oil and or dried codfish. The fish was taken out by another American vessel in the river, and the oil landed, and was, of course, laden on board the Liberty, in the port, but it always continued to be American property. This vessel was met at sea, eight leagues from Bilbao, and carried as a prize into that port by a Spanish privateer, who pretends to have the articles which were laden at Bordeaux condemned as good prize, in virtue of the declaration of His Majesty, at the commencement of the war; by which it is ordained that French produce, and even those of foreigners landed in France, having paid the entrance duty, shall not be admitted into Spanish ports, though they should be laden on board of neutral bottoms. But I submit to the superior wisdom of your excellency whether this arrêt could have had in view a case like the present, in which the entry duties were not received by the French, and in which the property has not been changed. And I request your excellency to observe, also, that this determination, taken at the beginning of the war, was modified by the principles established in the 4th article of the "ordenanza," by which it was proved that, in the actual circumstances, if the cargo of this vessel had been altogether the manufacture and property of Frenchmen, and was met at sea by a Spanish privateer, she could not be condemned according to the said principles. It would, therefore, be very extraordinary if the property of the friends of Spain were condemned in a case in which her enemy's property would go free.

In submitting those cases to the inspection of your Excellency, I have the most perfect confidence in the equity of the decision, and I pray

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you to be assured of the sentiments of the high consideration and respect with which I have the honor to be, &c., &c.

*The Duke of Alcudia to Mr. Pinckney.*

SAN ILDEFONSO, Aug. 14, 1795.

SIR: I have communicated to the King the contents of your letters of the 29th of July and 6th current, in which you bring to view the offer made to Mr. William Short, that our ships of war and privateers should respect the free navigation of the United States in the same manner as those of France.

You solicit to have liberated some vessels detained, and the restoration of the cargoes of some others reputed contraband according to the fifteenth article of our privateering ordinance.

On observing what you state, His Majesty has directed proper orders to be given to the Minister of Marine for liberating the brigantine Maria, of Boston, and the Liberty, from Bordeaux, which you declare to be American property. That the captain of the Providence be paid for the pitch, tar, and turpentine, taken from him at Santander, as contraband articles.

And in like manner that restitution be made for the cargo of the American brigantine Abigail, of New York, consisting of iron, steel, boards, and paints, confiscated by the marine Judge of Santander.

I hope that, in these dispositions, you will acknowledge the sincere desire which animates His Majesty to cultivate the most perfect harmony with the United States, and to cement still more the friendship subsisting between the two countries.

On my part, I renew to you on this occasion, &c.

*Mr. Pinckney to the Duke of Alcudia.*

SAN ILDEFONSO, Aug. 10, 1795.

MONSIEUR LE DUC: As in the conference with which you honored me on Wednesday last, I perceived that, although you have read with attention the memoir of Messrs. Short and Carmichael, upon the right of the United States to the navigation of the Mississippi, and to our Southern limit, and admit the justice of the arguments therein contained, yet, that your Excellency entertained some doubt relative to a part of the pretensions of the United States, I have thought it my duty to lay before your Excellency some arguments in addition, and I have endeavored to avoid as much as possible a repetition of those which have been so well developed in the said memoir, upon which I always rely as the most perfect exposition of our rights.

I have the honor to be, &c.,

T. PINCKNEY.

*Memoir, by Mr. Pinckney.*

"Thirty-two years have elapsed since all the country on the left or Eastern bank of the Mis-

issippi, being under the legitimate dominion of the then King of England, that Sovereign thought proper to regulate with precision the limits between the provinces of Georgia and of the two Floridas, which was done by his solemn proclamation, published in the usual form, by which he established between them precisely the same limits which, nearly twenty years after, he declared to be the southerly limit of the United States by the Treaty which this same King of England concluded with them in the month of November, 1782.

"By the Treaty of Peace between the late King of Spain and that Sovereign, signed the 20th January, 1783, he ceded to His Catholic Majesty the two Floridas, without making any description of their limits. However, it is not difficult to prove, not only what were those limits, but also what the two contracting parties understood by that cession. It is very evident that Great Britain could not be understood to have ceded more to Spain than the two Floridas, according to the limits fixed by the proclamation of 1763, and according to what had recently been concluded by a solemn Treaty to be the southerly limit of the United States. She had not been fortunate in the war which preceded that Treaty; but it had not so far humiliated her as to dishonor herself by ceding to Spain a territory which, two months before, she declared to belong of right to the United States. But, it is likewise evident that the Spanish Government at that time understood the same thing in receiving as England did in ceding the Floridas. In order to prove this, one need only observe the dates of the relative circumstances in this business. The said proclamation of the King of England had been published more than nine years before that epoch; it was impossible, therefore, for the Court of Spain to be uninformed on the subject of it; and if it were not content with the limits therein adjusted, it should have had others inserted in the Treaty of Peace of 1783. Besides, the provisional articles of the Treaty between the United States and England, in which this limit was acknowledged, were signed in the month of November, 1782, and immediately communicated to the Court of France. Now, the close connexion which at this time united the House of Bourbon, who possessed the crowns of Spain and France, was notoriously known. It is well known that these two nations were allies and confederates in the war against Great Britain. Is it, therefore, credible that the Court of France omitted to communicate to their ally the Treaty of the United States with Great Britain before the articles with Spain and the latter Power had existence? And this being the case, I repeat that, if she were discontented with the limits there determined for Florida, she then had an opportunity for opening negotiations in order to change them. But if it were possible to imagine that Spain, thus linked with France, and having an able negotiator upon the spot, treating of peace with the same Power, could have been ignorant of what was passing, a subsequent period occurred in which she still had

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an opportunity of making her objections to those limits, and when it was impossible that she could not have possessed all the necessary information, that is to say, all the time which had elapsed until her definitive Treaty with Great Britain, which was not signed until the 3d of September, 1783, a period of two months after the Treaty with America had been communicated to France, and even six months after it had been published in the United States. From these facts it follows that Spain, being informed of the limits fixed by the proclamation of 1763, and acknowledged by the Treaty of the United States, was content with them; or that, if she were not, that she made attempts with Great Britain, which, having failed in bringing about a change of them in the Treaty by which she obtained Florida, it results from every principle of justice, that she remained satisfied with those limits. But it has been said that Spain had pretensions for passing the limits above-mentioned by the right of conquest—her troops having, during the war, seized a certain portion of territory beyond that limit; but the answer to this pretension is as simple and as conclusive as that just developed, which is, that the territory conquered must have belonged before the war either to the United States or to Great Britain. If it belonged to the United States, it is very clear that Spain could have no right to make conquests on a nation with whom she was not at war; and I will not, for a single moment, admit an idea so disrespectful to Spain as to imagine that she could pretend to be the friend of the United States, to have succored them in the war, to have even lent them money for maintaining it, at the same time she was depriving them of their property. If this territory belonged to Great Britain, His Catholic Majesty obliged himself, by the sixth article of the definitive Treaty with Great Britain, to deliver up, without difficulty, all the country and territories conquered by the arms of His Majesty, which were not comprehended in the same under the name of cessions or of restitutions. Now, by the Treaty, there was under this description (besides the island of Minorca) only Florida, whose limits have been proved above. Therefore, in both cases, Spain has not the right of retaining these possessions under the name of conquest.

**MISSISSIPPI.**—The right of the United States to the free navigation of the Mississippi, also depends upon the best founded and most incontestable principles. In considering them I shall avoid, as much as possible, a repetition of the contents of the memoir of Messrs. Short and Carmichael, as I have endeavored to do in that which I had the honor of submitting to your excellency on the question of the limits, and this is the reason why I shall say nothing upon the argument which appears to me alone to decide this discussion in favor of the United States, to wit: the natural right they have to this navigation. But I shall content myself by saying some words on their right, founded upon the contracts, or their conventional right. And as to the first, but one observation presents itself, which can be applied to

both the questions of limits and of navigation, which is, that the contracts and the stipulations relative to these two subjects were made by those who had the right of making them when Spain had no interest therein; and that this Power having acquired the territories upon which she supports her rights, after they had been subjected to those conditions by the lawful proprietors, it consequently follows that she should be liable to the same conditions with regard to these territories as the ancient proprietors were: for there is nothing more clear, than that those proprietors could not cede to Spain a right which they themselves had not. Let us examine, then, whether those ancient owners, admitting they were in actual possession, could with justice hinder the inhabitants of the United States from navigating the Mississippi. The parties were France and England, who (the one possessing the right and the other the left bank of the river) declared, by the Treaty of Peace of 1763, that all the subjects of the British Empire should have the right of navigating the Mississippi in its full extent, from its source to the ocean. By this article, the right of the United States (then a constituent part of the British empire) to navigate this river was acknowledged, and it may be added that they were the part of that empire for which this article must have been principally stipulated, being the part the most interested in it. Now, which of those two contracting Powers could now lawfully deprive us of this right? Certainly not France, who would do it in direct contravention of her Treaty of 1763—France, our friend, our ally, who lavished her blood and treasure for the support of our rights—France, in a word, who, by the 11th article of her Treaty of Alliance, had agreed to guaranty to the United States ‘their possessions and the additions or conquests which their confederation may procure during the war, from any of the dominions now, or heretofore, possessed by Great Britain in North America, the whole, as their possessions, shall be fixed and assured to the said United States, at the moment of the cessation of their war with England.’

“Neither can Great Britain oppose the right of the United States to this navigation, in derogation of her Treaty of 1763, and in direct contravention of her Treaty with the United States, in November, 1782. If, therefore, neither the one nor the other of these ancient proprietors had the right of prohibiting the United States from the navigation of this river, I must repeat here, that they could not, in ceding their territory to Spain, cede, also, a right which did not at all belong to them, and, consequently, that Spain does not possess that right. It may here be added, that all the arguments founded upon the knowledge Spain possessed of the existing state of the contracts, when she obtained her acquisitions, which have been above applied to the question of limits, are opposed with still greater force, to her pretensions to the exclusive navigation of the Mississippi; for as much as she was one of the contracting parties to the Treaty of Peace of 1763, and as, by the second article of the definitive Treaty of

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Peace, concluded in 1783, that very Treaty was expressly one of those which served as a basis and foundation to that of 1783."

*Mr. Pinckney to the Duke of Alcudia.*

SAN ILDEFONSO, Aug. 29, 1795.

MONSIEUR LE DUC: Having had the honor of presenting to you the project of a Treaty of Friendship, of Limits, and of Commerce, and having, at the same time, offered another project, separately, contained in a single article, which tends to cement, still more, the connexions of friendship between the two nations, I must remark to your excellency that, in case you agree to the latter project, it may be substituted in the Treaty instead of the twelve articles, from the fifth to the sixteenth, inclusively, which, in that case, would become useless; but wishing to insert this observation in the Treaty, I take the liberty to inform your excellency thereof, in order to avoid the confusion that would otherwise take place.

With a hope, which I conceive to be founded in the interest of both nations, that this negotiation will speedily terminate to their mutual advantage,

I have the honor to be, &c.,

THOMAS PINCKNEY.

*The Duke of Alcudia to Mr. Pinckney.*

SAN ILDEFONSO, Aug. 29, 1795.

SIR: I have observed, in yours of this date, the reflection which you have made relative to the project of a Treaty of Friendship, Limits and Commerce, which you delivered to me, and the separate article, at the same time, accompanying it, and coincide with you in the just observation which you have made.

I renew, &c.

*Mr. Pinckney to the Duke of Alcudia.*

SAN ILDEFONSO, Aug. 30, 1795.

MONSIEUR LE DUC: I have the honor to address your excellency in favor of an American citizen, named Denabre, captain of the merchant ship Betsey, of Philadelphia, who writes to me from Madrid, that, after having been detained upwards of two years in the pursuit of his claim against the captors of his vessel, and after having obtained a favorable sentence from the tribunal of appeal, who were to judge his process in the last resort, his adversary still sought further delays, by making a representation to His Majesty, requesting that a greater number of judges be appointed for giving definitive judgment. If this representation has been made, I doubt not but your excellency will see it in its true light, and will act so as that that justice, which I am confident His Majesty desires to render, be no longer delayed.

I have the honor to be, &c., &c.,

THOMAS PINCKNEY.

*Mr. Pinckney to the Duke of Alcudia.*

SAN ILDEFONSO, September 3, 1795.

MONSIEUR LE DUC: I have the honor to send you, enclosed herein, the copy of two petitions, presented by the Captain of an American vessel called "The Three Friends," [Los Tres Amigos] to the Marine Tribunal of Santander, in which the circumstances relative to his detention are detailed, and from which, it appears that the captors, notwithstanding his claims, have landed the cargo of the said vessel.

As I am well assured, from what has already taken place on like occasions, that His Majesty will be pleased to cause this vessel and cargo to be restored, I take the liberty of laying these facts before your excellency, not doubting but that you will have the goodness so to act as that this affair be terminated with the least possible expense to all the parties interested.

I shall only add an observation, that the circumstances of this vessel having been found in the possession of Frenchmen, cannot change the case, because she would not have been deemed good prize if she had been carried into France; and even if all the cargo belonged to Frenchmen, it would be restored here, according to the last disposition of His Majesty.

I have the honor to be, &c.

*Mr. Pinckney to the Prince of Peace.\**

SAN ILDEFONSO, September 13, 1795.

MONSIEUR LE PRINCE: I have the honor to inform your excellency that the owners of the American vessels, the Rooksby and Greenway, which were carried into the port of Cadiz, in the year 1793, by His Majesty's frigate Santa Cathalina, have sent an agent to Spain, in order to receive those vessels, which they supposed had been put in complete repair in the royal dock-yards of His Majesty. Your excellency will readily recollect all the circumstances of this affair, by recurring to the letters with which you honored Mr. Short, on the 14th and 24th of October, 1794. The agent of the proprietors has had those vessels surveyed at Cadiz, and the report of the artists states, that there is still sufficient time to repair them, if the work be done before the autumnal rains complete their ruin. This agent is authorized to receive the indemnifications due for the freight of the cargoes of these vessels, and for the expense of their detention; but that which presses most in this case, and on which I beg your excellency to communicate to me the King's determination, is the giving of an order for the commencement of those repairs, as the agent is arrived here at the Sitio, where his expenses are more considerable than he can conveniently afford, and as he assures me that, if the repairs are not begun immediately, it will be useless to undertake them. As to what regards the freight and other demands, I have no doubt but we shall be able to arrange them amicably, at the same time we regulate the principles of several other claims of the same nature.

I have the honor to be, &c.

\* Before addressed as the Duke of Alcudia.

*Treaty with Spain.**The Prince of Peace to Mr. Pinckney.*

SAN ILDEFONSO, September 15, 1795.

SIR: On observing what you state in the letter of the day before yesterday, on the solicitation of the proprietors of the American vessels, the *Rooksby* and *Greenway*, detained at Cadiz since the end of 1793, I assure you, sir, that orders have long ago been given for proceeding, without loss of time, to the repairing and refitting of the said vessels, agreeably to what has been proposed; but without attending to the pretended reclamations, for the reasons mentioned in my letters to Mr. William Short upon this subject.

On this occasion I reiterate to you, &c.

*Mr. Pinckney to the Prince of Peace.*

SAN ILDEFONSO, September 20, 1795.

MONSIEUR LE PRINCE: Having received orders from the Government of the United States of America to make reclamations to the Court of Spain, in consequence of the capture of several vessels belonging to their citizens, as well by the Spanish ships of war as by their privateers, during the war which has just been terminated, it is my duty to state to your excellency the basis upon which these reclamations are founded. There is no principle more incontestable, or more generally acknowledged, than that which establishes that, when two nations have the misfortune to be at war, the other nations wishing to remain at peace and not to meddle in the quarrel, ought not to meet with any molestation or bad treatment from them; but, on the contrary, that they should be free to go and come, to pursue their commerce and their labor, in the same manner as though the war did not exist; always suspending the plenitude of the exercise of this right in two cases only: the first of which is, not to carry, either to the one or to the other of the belligerent parties, warlike stores. The second, to carry nothing to places besieged or blocked up. With the exception of these two conditions, the war should be null, and as though it did not exist, so far as it respects neutral nations. This doctrine, founded upon reason, and supported by the sentiments of the most enlightened writers, is further established by the express approbation of the commercial nations of Europe, of whom there is scarcely one who has not adopted these principles in their late Treaties, in which they declare the conduct which the contracting parties should hold, in case either should be at war. But the time in which this common sentiment of the majority of the maritime nations manifested itself still more clearly on this subject, was, when maritime conventions were established in 1780, in the first instance, between the Northern Powers, and adopted posteriorly by a decisive plurality of the nations of Europe, and particularly by Spain.

It is this respectable code, dictated by wisdom and moderation, which, by preserving the privileges of those at peace, does not infringe the rights of those at war. This code, whose equitable principles have drawn forth the assent and support of

the most respectable Powers of Europe, who also, by their position, as well political as geographical, seemed to have but little interest in it—I mean the Emperor and the King of Prussia, who have solemnly adopted it—this code, in a word, uniting the sentiments of all the nations of the two hemispheres, except a single Power, has placed on a certain basis that which henceforward should be the Law of Nations on this subject. It is this code which I cite for the foundation of the proposition I have to make to your excellency, to wit: that the decisions on the captures of the American vessels which have been brought into ports belonging to His Catholic Majesty by his ships of war or privateers, shall be given according to the principles of the above-mentioned convention, made between the Empress of Russia and the King of Denmark in 1780, and to the principles of which Spain and the United States have since declared their intention of adhering, and that Commissioners shall be named on both sides for determining the reimbursements that may be due on this account. I do not think I can propose to your excellency a more convenient method for terminating all discussion on this subject, than by establishing a rule formally approved of by both nations, who have united in its favor, so remarkable a plurality of the important European Powers—a rule, moreover, conformable to the principles which His Majesty has declared he would follow in the war which has just been terminated, since, in the 14th article of his "*ordenanza de corso*," he has determined to observe the same conduct in this respect, which should be held by his enemies. Now, France has been held, by her Treaty with the United States, to observe these same principles, and she has acted conformably, so that the same rule which the King has already established, is precisely that which I at present claim. If the fact be as our citizens complain, that a considerable number of our vessels have been taken and carried into the ports of His Majesty, (particularly in the West Indies,) when they were occupied in lawful traffic only, where, after a long detention, their cargoes have been carried off by force, without the proprietors, for the most part, knowing whether they were condemned by a court of justice or not; if it be proved that half of the crews of some of these vessels died of the disorders incident to their captivity, those who survived abandoned their vessels and cargoes, rather than face the dangers of so destructive a detention; and if, by the very sentences of the tribunals in the islands, (where the sentences have been communicated to the owners,) it be proved that the acts for which these cargoes have been condemned were not offences against the Law of Nations; I am too well convinced of His Majesty's equity, and of his benevolence towards my nation, one instant to doubt that he will order proper measures to be taken for repairing the wrongs committed under color of his authority. If, on the contrary, these facts do not exist and should not be proved to the satisfaction of the Commissioners named by the King, he will have given a proof of his love of justice, and of his



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friendship for the United States, which will cost but little; will put a stop to every complaint in this respect; and do away the necessity of a claim on the part of Government upon each individual case, which would give an infinite deal of trouble to your excellency, and bring with it an endless discussion. I take the liberty of adding here a single reflection, which is founded on what appears to me to be the true interests of Spain on this subject, to wit: that it is expedient for a nation possessing the richest productions in the world, and who, during a war, must necessarily draw great resources from her distant possessions, for a nation whose inhabitants are not generally led by habit, or perhaps by sentiment, to a privateering war, that it is expedient, in a word, for the mistress of the mines of Mexico and Peru, to give the most ample latitude to the rights of neutral nations during a war. It is this sentiment, founded on justice and sound policy, which, doubtless, dictated the adherence of Spain to the principles of the armed neutrality proposed by Russia; and I have no suspicion that, in the present case, she would wish to swerve from it to do an injury to a nation, led equally, from interest and disposition, to rank herself among her best friends.

I have the honor to be, with sentiments of the highest consideration and respect, Monsieur le Duc, your most obedient and very humble servant,

THOMAS PINCKNEY.

*The Prince of Peace to Mr. Pinckney.*

SAN ILDEFONSO, September 23, 1795.

SIR: I yesterday received yours of the 20th, relative to the orders you have received from the President of the United States, for claiming indemnification for various prizes made by the ships of war and privateers of Spain, particularly in America, and soliciting the naming of persons on both sides, informed of the cases and complaints of the proprietors for determining them, according to the principles of the neutrality adopted in the year 1780, by the Northern Powers of Europe and by Spain.

You accompanied the said paper with an additional one, which I did not touch upon on Sunday, when I handed you the project of the Treaty, expecting that this point would be provided for therein.

And, in answer to both cases, I can inform you that, on the same terms as have been determined the American prizes in Europe, since the neutrality of the United States with France, in the present war, has been known, shall be judged the prizes which may have been made in America. But this matter being very different from the system of a Treaty stipulating positive regulations for the future, there is no necessity of including it therein.

I renew, on this occasion, my sincere desires, &c.,

THE PRINCE OF PEACE.

*Notes on the project of a Convention proposed by His Excellency the Prince of Peace.*

SEPTEMBER 25, 1795.

The preamble of this project appears very convenient, but there would be no impropriety in expressing the appointment of the Plenipotentiary of the United States according to the forms prescribed by their Constitution.

## ARTICLE 1.

ART. 2. I think that it would be better to insert six months, instead of one year, for the period in which the garrisons shall retire, because six months may elapse after the signature of the Treaty, before the ratifications are completed, and hence the year which Spain requires for this purpose will be obtained.

ART. 3. The same period of six months may be substituted instead of one year, as in the preceding article, which corresponds with this.

ART. 4. In the ninth line of this article it appears that the word "*anchura*" (breadth) may be substituted for "extension."

In the 11th and 12th lines, the words "*solo et exclusivamente*" (alone and exclusively) should be omitted, for Spain could scarcely confide in the good faith of the United States, nor in this Convention, which she is about to conclude with them, if they agreed to an article which would be an infraction of another Treaty, previously made. Now, by the Treaty of Peace between the United States and Great Britain, concluded in 1783, it is stipulated that the navigation of the river Mississippi shall continue free to the subjects of Great Britain and to the citizens of the United States. It appears that the following provision would have all the desired effect: "It is nevertheless agreed, that nothing contained in this article shall be construed or interpreted to communicate the right of navigating this river to other nations or persons, than to the subjects of His Catholic Majesty, and to the citizens of the United States."

Again, this article is incomplete, and does not fulfil the object of the two parties, which is to avoid all circumstances which might become a cause of the interruption of the good harmony of the two nations; because it does not point out the manner in which this navigation shall be exercised. It is true, that the stipulation of the free navigation carries with it, as of natural consequence, that the persons and effects of the contracting nations cannot be arrested, or subjected to pay any duty for the use of this navigation, and that they are to enjoy all the conveniences on the borders of the river which the Laws of Nations permit; but it could produce no inconvenience to stipulate these points in the same article, by which means every discussion in this respect would be avoided in future. And I think it would also be the interest of His Majesty, in order to do away all suspicion of contraband trade, that a place be assigned for the American vessels, arriving from sea or from the river, to put into, or to touch at, instead of a more diffusive exercise of this right.

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SUSPENSION.—Again, as it appears that the Court of Spain desires to establish this convention upon the basis of justice, although, at present, it does not judge proper to enter into commercial arrangements with the United States, I think that, upon this footing, also, M. le Prince will agree, that justice will not be complete without some addition to this article. For I take it for granted, that the right of the United States to the navigation of the Mississippi, and to the limits, has been proved, and that it is incontestable; and I conceive this is deducible from the arguments which have been brought forward on the subject, on the part of the United States, having never been answered; and I am very certain that, if there were reasons capable of refuting them, they would not have escaped the penetration and intelligence of the Minister conducting this negotiation on the part of His Majesty, who would have displayed all the arguments which could be opposed with justice and energy to our pretensions. But his views are too upright to use unfounded arguments. He is also too enlightened to employ weak reasonings, and I am sincerely and fully persuaded that he had no others to produce. The right of the United States, therefore, being established, there is certainly something due to them for the suspension of that right, during a period of twelve years, which has done incalculable injury to the inhabitants of the fertile countries watered by the Mississippi. Under this point of view, then, I conceive I do not demand a thing incompatible with the most rigorous justice, when I make the proposition to cede to us a convenient space of ground for establishing a depôt, where the American vessels coming from sea may discharge their cargoes, with those arriving from the neighboring ports on the river. Besides, Spain having actually seen and considered the reasonings and the equitable basis upon which the pretensions of the United States are founded, as soon after that examination as she was convinced of their solidity, she has said, with a frankness and respect for justice which does her great honor, “We do agree, that the navigation of the Mississippi be common to both nations:” and I am too well assured of the Spanish good faith, to imagine that she wished this declaration to be illusory, without utility and without effect. Now, by the position and singular nature of the Mississippi, its navigation cannot be exercised with advantage by the citizens of the United States, without such a place for unloading their vessels as I wish to have stipulated by this convention; and I doubt not but that His Majesty will agree to it, after having reflected that it is a natural consequence of what is already concluded. Nor do I think it would be well to omit this part of the article under an idea that when we agree to a thing we agree to every matter necessary for its execution, and, consequently, that the Americans will have the right of using the necessary accommodations on this navigation; because I consider, as the principal object of this convention, the termination of everything that may give room for future complaints and disputes, whereas, the indeterminate manner of the use of this naviga-

tion would be a fertile source of altercation, which I doubt not but M. le Prince will readily co-operate with me to avoid.

Before I examine the 5th article, it is necessary to remark here, that if the 5th, 6th, 7th, and 8th, and after, the 15th, 16th, and 17th articles of the project which Mr. Pinckney had the honor of proposing, be entirely omitted, without any substitute, then it appears that every stipulation on commercial relations is rejected, and that His Majesty contents himself with doing what appears to him to be just, without wishing to connect more closely the bands of friendship with the United States by means mutually convenient. Mr. Pinckney, however, cannot allow himself to think—such being the dispositions of His Majesty, observing his benevolence for the United States, and the position of the two nations—but that M. le Prince still has some articles relative to commerce to propose. As to what regards an intimate friendship between Spain and the United States, under a political point of view, as relating particularly to those possessions of Spain in America, Mr. Pinckney does not hesitate to say that the advantages which would result therefrom to Spain are incalculable; and as to what regards merely the benefits of the commerce, he will content himself with laying only two circumstances before his excellency, proving that the commerce of the United States is not contemptible. The first is, that the inhabitants of the United States have doubled in the space of twenty years, eight of which have been employed in a war, which having partook of the nature of a civil war, was destructive to population, not only from the rage with which such wars are pursued, but by the emigrations which follow in such cases. Notwithstanding, the population of those States, which, at the commencement of the war in 1775, was under two millions and a half of persons, at this moment amounts to near five millions of inhabitants. The other fact is, that the exports from the United States to foreign countries, for the last year, exceeded in value the sum of thirty-two millions of dollars. A country, therefore, which offers a market consisting of five millions of persons, manufacturing but little for themselves, and which exports to the value of upwards of thirty millions, principally of articles of the first necessity, cannot offer a disadvantageous commerce.

ART. 5. It would seem that a part of this article contains inconveniences which should cause it to be rejected by both parties. The first principle apparently necessary to establish relative to the Indians is, that neither party should meddle in the political affairs of those inhabiting the territory within the limits of the other; and it is especially the interest of Spain to hinder such practices with the great number of Indians inhabiting her territory. But, if it be stipulated by this Convention, “*Que no se depojara ni hechara de sus tierras a dichas naciones,*”\* and a war should take place between one of the parties and an Indian nation inhabiting the territory within its limits, that party

\* That the said Indian nations shall neither be disturbed nor driven from their lands.

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could not repel such enemies, or drive them from its lands, though they should be the aggressor, without an infraction of the Treaty. The objection to this article originates only in the desire which the United States have to avoid every source of discord with Spain. There is nothing more evident than the care with which the United States have avoided a rupture, under very delicate circumstances. All Europe have witnessed, and Spain ought to be convinced of, the moderation and the wisdom of their Government on this score, with regard to European nations; and as to the Indians I can also with confidence assert that our Government has spared no pains in order to live upon good terms with them, and to render to them every friendly office and succor in its power—having established it as a principle never to take their lands unless it had a title to them as a just indemnification for a war of aggression on the part of the Indians, or unless by a sale voluntarily and publicly made. I am well convinced that His Majesty possesses the same sentiments of justice and benevolence for those nations; but it appears clearly that neither Spain nor the United States should agree that any other foreign Power whatsoever should have the right of meddling in the discussions which might take place between them and the Indians inhabiting their territories.

The last part of this article appears also to require some ulterior explanations.

ART. 6. Agreed to.

ART. 7. to require explanation of the 10th and 11th lines.

ART. 8, 9, 10, and 11. Agreed to.

ART. 12. Here are omitted the 15th, 16th, and 17th articles of the project of Mr. Pinckney.

ART. 13. Here are omitted the 19th, 20th, 21st, 22d, and 23d articles of Mr. Pinckney.

ART. 14 and 15. Agreed to.

ART. 16. Agreed to as far as the last paragraph, beginning with the words "*y los casos*," to which I am opposed; because it would render almost useless everything contained in this and the preceding article; because it is repugnant to the system of the armed neutrality of the last war, which I conceive it is the interest of Spain, as well as of the United States, to support; and because it would give room to perpetual abuse and vexations. I will put a case, which will show the inconveniences of this part of the article. The United States are at war with the Algerines; if this war should not soon terminate, it is probable that the United States will have a squadron in the Mediterranean. In that case, I suppose that Spain would not think it proper that the American ships of war should have the liberty of arresting those of Spain—of putting them out of their course, and of taking part of their cargoes, which they might do under pretext that they stood in need of it.

ART. 20. This article, according to the *projet* of M. le Prince, could not be executed in the United States on account of their Constitution, in which no authority exists giving them the right to cause a person to be arrested unless sufficient testimony be produced for having him brought before the tribunals. Mr. Pinckney, therefore, would not act

with good faith were he to consent to the insertion of an article which could be executed in Spain, and not in the United States. And he thinks also that it would be better to form from this article a separate Convention, in which the necessary forms for having arrested and delivered up any person whomsoever, according to the Constitution of the United States, shall be more detailed, and in which M. le Prince might insert the testimony and forms required by the Spanish laws for obtaining the effect desired.

M. le Prince will doubtless find, on reflection, that the term "*malhechores*" (malefactors) is infinitely too vague, as it comprehends every sort of transgression opposed to good morals; and it is also too uncertain, because such an act as would be reputed "*malhecho*" (a bad or criminal action) in one country, or in one age, might not be deemed so in another. As to what regards the effects or property that may be stolen or concealed, and carried into the territories of one of the parties, the following article gives a remedy, and the slaves are comprehended under these descriptions. The reason why the crime of murder is the only one mentioned in the project of Mr. Pinckney is, because it is the only crime appearing to merit the vengeance of Governments, which obliges them to take the trouble of pursuing the fugitives into foreign countries; because the exile which is the consequence of their flight appears to be a punishment sufficient for other crimes, and because by the 22d article they may be deprived of all the property which they may have been able unjustly to carry with them.

ART. 22.

ART. 23. Mr. Pinckney having stated, in a separate memoir, the reasons for inserting here an article as to the captures made by the Spanish privateers during the war just terminated, has nothing further to add to this.

[Enclosures in Mr. Pinckney's <sup>spatch</sup> of October 28, 1795—*postea*.]

*Mr. Pinckney to the Prince of Peace.*

MADRID, October 5, 1795.

MONSIEUR LE PRINCE: Your excellency, by the letter with which you honored me on the 23d ult., having agreed that the captures of the vessels of the United States which shall have been made in America shall be judged according to the same principles by which the prizes made upon the Americans in Europe have been determined since the neutrality of the United States towards France has been known, there only remains, for the accomplishment of the commission with which I am charged by the President of the United States on the subject, to explain what those principles are, and to bring them forth; although it appears to me that this might be done very conveniently by an article in the Treaty which, I hope, we shall soon terminate, as the principal object of this Convention is the termination of the differences which have formerly subsisted. However, as your excellency appeared to have objections to it, I have put

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those details in the form of a separate Convention, herein enclosed, and I flatter myself that the terms in which it is conceived will be acceded to by your excellency.

*The Prince of Peace to Mr. Pinckney.*

SAN LORENZO, October 7, 1795.

SIR: In answer to yours of the 5th current, in reply to mine of the 23d, you say that you suppose the difficulties pointed out therein against the insertion in the present Treaty of an article relative to the captures made on the citizens of the United States during the present war would require a separate Convention, in the terms mentioned. But there is, moreover, opposed to this, the same reasons as those to the insertion of the article. I must add that, as this business will require little explanation when agreed upon, there is no need of multiplying writing for inserting it, and that it will be proper to confine ourselves to the limits of our particular agreement, for whose execution the most clear and positive orders will be communicated.

SAN LORENZO, October 7, 1795.

The Prince of Peace, in consequence of the conference with Mr. Thomas Pinckney on Friday last, on the Treaty between Spain and the United States, which finally closed the said Treaty, hopes that, if Mr. Thomas Pinckney finds it conformable to his instructions, and to what has been agreed upon, he will sign it when convenient.

*Mr. Pinckney to the Prince of Peace.*

MADRID, October 9, 1795.

M. LE PRINCE: I have had the honor of receiving the project of the Treaty with the last corrections which your excellency has given to it, and I have considered it with all the attention which an instrument apparently of so much importance to my country merits; and I request you to be assured that I have borne in this investigation the most convenient disposition for establishing, upon just and solid bases, a close and sincere friendship between our two nations. It is, therefore, with much regret that I find myself, after the most mature reflection, unable to sign this Convention without its undergoing some alteration, and the principal reason is, that it is not final and conclusive, but refers to ulterior negotiations one of the principal objects of my mission, which is to establish the manner in which the citizens of the United States are to navigate the river Mississippi. I should here remind your excellency that it was in consequence of the representation of the Chargé des Affaires of His Majesty, that the President of the United States thought proper to establish the mission extraordinary which he has confided to me; and the principal reason offered by Mr. Jaudenes in his letter of the 16th of August, 1794, for the adoption of this measure was, that "His Majesty would not enter into any Treaty, unless the powers to the Ministers of the United States were

ample, or accompanied with secret instructions having for object to conclude a partial, and not a general, Treaty." After which, he adds, "that Spain is ready to treat upon the points of limits, Indians, commerce, and whatever may conduce to the best friendship between the two countries." Having, therefore, arrived here with the impressions naturally made by these expressions, it is with pain I have received the intelligence which your excellency has given me, that His Majesty would not, under present circumstances, enter into commercial arrangements. But, as Commercial Conventions should be arrangements of mutual convenience, I have the honor of assuring your excellency that the United States would not desire to have any, if the nation with whom they contract does not find a mutual advantage in them; and for that reason I have not been more importunate with your excellency for establishing articles on this subject, which the letter I have just cited appeared to authorize. But this is not the case with respect to what regards the navigation of the river Mississippi, which has been the subject of discussion between the two countries since the peace of 1783, and which, after all that has passed, I think that the United States have a right to expect to be put upon an advantageous footing in this Treaty. I shall not here repeat what I have already had the honor of representing to your excellency in writing and in conversation on this subject—adding only to my note on the 4th article of the project of your excellency references to some authors on the Laws of Nations, proving that we pretend to nothing unauthorized by those laws, even admitting we had no other equitable demands on account of the exclusion from that navigation which we have suffered for twelve years. *V. Grotius de J. B. and P.*, l. 2, c. 2, sec. 13: *Puffendorf*, l. 3, c. 3, sec. 8; *Vattel*, l. 2, sec. 129.

I shall here take the liberty of submitting a paragraph which might be added to the last article of the project of your excellency, and which appears to me of a nature not to encounter any difficulty, and may be regarded as an intermediate mean until His Majesty shall think proper to bring forward the ulterior measures on the subject mentioned in this article—observing, at the same time, that I do not pretend to propose this as an exclusive mean; but that if your excellency should have any other to propose, by which the United States might freely enjoy this navigation without waiting the result of the ulterior measures, which circumstances may still put off for a long time, I shall be much charmed at being able to agree thereto, having nothing more at heart than to terminate this discussion to mutual satisfaction. There are some other points in this project of less importance, but which appear to me susceptible of changes which I shall have the honor of adding, in which I think we shall readily agree.

I expect to go to the Sitio to-morrow, and I shall have the honor of presenting my respects to your excellency at the conference on Sunday, when I hope to receive the determination of your excellency on the subject.

I have the honor to be, &c.

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In the fifth article, the word "*offendan*" appears to me too vague and indefinite, and therefore it would be the better to omit it. In the last paragraph of the sixteenth article, for "*la Espana*," should be substituted "*las dos Potencias*," because the two Powers having equally the liberty of arresting the vessels of the other party in case of neutrality, they should be equally held to make compensation; and although the United States do not support a great naval army during peace, I conceive that, in case of a war, they would not want resources of this kind. And in the note which I have already had the honor of presenting on this article, I have detailed a case in which an American squadron, under very probable circumstances of arriving soon, might be able to make use of the right which this article would concede. It appears also that the price of the articles should be fixed in this convention; and as it is only in cases of urgent necessity that the right of taking them will be exercised, that price should be fixed high enough to hinder them from being taken without a real necessity, in which case those who would take them might easily have them also on paying a high price, and the neutral nations would be indemnified for their detention, and for having lost the object of their voyage. Wherefore, I propose that, in lieu of the words "*por tanto de su valor*," there be inserted, "at double the price which these effects cost," which will be proved by the papers relative to the cargoes found on board of the said vessels.

In the seventeenth article, I propose that, instead of "*d'Espagne*," towards the end of that article, the words "of the belligerent Power," be inserted; and that, instead of the last words, beginning with "*Lino*," there be inserted, "if it shall not be proved that they truly belong to the subjects or citizens of the contracting Power which shall be neutral."

In article twenty-first, I propose to change the following words: instead of "*S. M. Catolica*," insert "the two Powers;" and instead of "concedera," "shall mutually give on both sides to the commerce between the two nations."

*Mr. Pinckney to the Prince of Peace.*

SAN LORENZO, October 11, 1795.

MONSIEUR LE PRINCE: If I have rightly understood what you did me the honor to say to me at the conference to-day on the subject of my letter of the 9th current, that you could not agree to add what I proposed to you in the last article of the project of the Treaty of your excellency, because, that proposition being naturally temporary, and liable to be changed as soon as the ulterior measures brought into question in the last article shall have been taken, you did not think proper to insert it in a Treaty whose articles are of a permanent nature; but that you would agree to propose to His Majesty, and to support the proposition, that, by a separate instrument, the accommodation of a depot at New Orleans, which I proposed shall be agreed on, and that, in the same instrument, we may also insert the arrangements

relative to the prizes made upon the Americans during the war lately terminated; having, therefore, reflected on this proposition, I have the honor to reply, that, although I do not see, under the same point of view as your excellency, the objection made to the insertion of a temporary article in the same Treaty with other permanent arrangements, since it has generally been practised hitherto, yet the regard I have for your excellency's opinion, and my sincere desire of rendering the arrangements we are treating of as agreeable to Spain as may be compatible with my duty, lead me to acquiesce in this matter, provided that the latter convention be of the same force, and executed at the same time as the principal Treaty; and the better to explain my intentions hereon, I take the liberty of sending, herein enclosed, the project of two separate articles for the latter instrument, such as I can sign, and as, I doubt not, your excellency will find reasonable.

Mr. Pinckney proposes that the following be added to the last article of the project of M. le Prince: 1st. And that, in the meanwhile, the citizens of the United States shall have liberty to carry their produce and merchandise to New Orleans, and there to lodge them in stores, to which there shall be two keys, one of which shall be kept by His Majesty's custom-house officer, and the other by the proprietor, and that they be permitted to import the said effects whenever they think proper, in vessels of the United States, without paying custom-house or any other duties, except the ordinary and reasonable price for the hire of the said stores.

2d. His Catholic Majesty having, by his "*ordenanza de corso*," dated the 1st of May, authorized his vessels of war and privateers to bring into the ports of his domains the vessels of neutral nations, laden with merchandises belonging to his enemies, and to detain them until it should appear whether the enemy nation, to which those merchandises should belong, would not refuse, but, on the contrary, allow the same privilege, "observing the conduct which it has held, and will hold towards Spain, requiring a reciprocal treatment on her part."

And whereas a Treaty subsists between the United States of America and France, by which the conduct of the two nations is to be governed when one of them is at war; and it further appearing that the French have observed the stipulations of that Treaty with regard to Spain during the war which has just been terminated: His Catholic Majesty, in consequence, has agreed with the said United States of America, that all the vessels belonging to the citizens of the said States, which shall have been brought into the ports of Spain, as well in Europe as in the dominions of Spain in other parts of the world, shall be judged according to the stipulations contained in the said Treaty; and that there shall be two Commissioners appointed on the part of each nation, immediately after the ratification of this convention, who shall determine whether, according to the said Treaty, there is any right to indemnity, and who, in that case, shall fix the



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sum to be restored, which His Catholic Majesty shall cause to be paid, without delay, to the injured party; and, in case of disagreement of the said Commissioners, they shall choose by common consent, (if they can agree in the choice, if not, by lot,) a fifth Commissioner, and a majority of votes of these five shall finally determine the question, and without appeal.

*The Prince of Peace to Mr. Pinckney.*

SAN LORENZO, Oct. 12, 1795.

SIR: In answer to yours of yesterday, with the two articles referred to our conference for tomorrow, the one relative to the mode in which you wish the effects of the citizens of the United States navigating the Mississippi should be deposited at New Orleans; the other for regulating the prizes made during the present war, I can assure you that His Majesty, by a very particular grace, and as a proof of his liberality, will permit the citizens of the United States to deposit their effects in the custom-house at New Orleans, on paying the storage duties to which his own subjects are subjected: but without having the two keys you mention, because this, besides being entirely novel, is also contrary to confidence and good faith. As to what respects the point of prizes, I cannot add anything not already contained in my former official letters, since His Majesty will never admit this matter to be included in a Treaty or Convention.

*Mr. Pinckney to the Prince of Peace.*

SAN LORENZO, Oct. 16, 1795.

M. LE PRINCE: On considering the letters which your excellency has written and what you have done me the honor to say to me in conversation, in reply to the representations which I have made relative to the vessels which have been taken by the ships of war of Spain during the war, it appears clearly that we agree upon the principles which ought to determine this business, since the verbal convention which you made with Mr. Short, "That Spain will observe in the determination the same conduct towards you which is prescribed by the Treaty of Commerce between France and the United States," is so much the more satisfactory, as your excellency, by your letter of 23d of September, extends this principle to all the vessels of the United States which have been taken during the war as well in the American seas as in those of Europe. What at present appears to me necessary is to put it in my power to send to the President of the United States the result of the claims which I have had the honor to make in virtue of my commission on this subject, and to agree upon arrangements for giving effect to these principles. With this view I have the honor to propose that your excellency communicate to me officially the determination of His Majesty on the subject, and that the principles being thus stipulated, Commissioners be named on both sides for ascertaining the damages which may be due to the citizens of the United States according to those principles.

*The Prince of Peace to Mr. Pinckney.*

SAN LORENZO, Oct. 18, 1795.

SIR: You refer me, in your letter of the 15th instant, to mine of the 23d ultimo, for what I have said on the mode in which the captures of the vessels of the United States, lately made in America, shall be judged, and to my verbal conversation, on this point, both with you and Mr. Short; and you suppose that we perfectly agreed thereon, and that we might conclude upon a rule of procedure conformably to the principles adopted. But, from the same context of my letter already mentioned, is to be clearly inferred the distinction of two epochs; the one from the beginning of the war until the 6th of April, when His Majesty ordered the vessels of the United States to be treated in the same manner as those of France; and the other from the 6th of last April until the present time. The captures made within the first, must be judged according to the marine ordinance, (ordenanza de corso,) and the general orders communicated at the time; and the vessels which may have been detained since the first of April, in the present year, shall be treated in the same manner as those which were then brought from the coast of Cantabria.

*Mr. Pinckney to the Prince of Peace.*

SAN LORENZO, Oct. 20, 1795.

MONSIEUR LE PRINCE: I am mortified on finding, by the letter with which you honored me on the 18th, that your excellency proposes to divide the war, which has just been terminated, into two epochs, and that the American vessels which have been detained by those of Spain, during that war, should be differently treated, according to the time at which they were taken; as it seems to me that that justice which should govern the conduct of nations towards neutral flags is always the same, and ought not to be liable to the variations of time or circumstances. It is very clear that the United States were as much neutral and as friendly to Spain at the beginning of the war as after the 1st of April last, and that consequently they should expect similar treatment at both epochs. That which is at least certain is, that, at all times, they ought to be treated according to the Laws of Nations, and I conceive I have proved very clearly what those laws are on this subject in my official letter of the 20th of September last; and, in order to avoid repetitions, I take the liberty of requesting your excellency to recur to that letter for the reasons upon which our claims are founded. As I do not know what are the general orders mentioned by your excellency, which were given before the 1st of August, 1795, I cannot answer that the United States will be contented with the determinations founded on them. If they are conformable to the armed neutrality of 1780, to which Spain and the United States have declared their adhesion, the United States will have nothing to say against them; but if they were formed upon the supposition that France was not a legitimate Power, the Laws of Nations cannot take place in cases respecting the

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commerce with that nation, and the United States would not consent to a proposition which would do so much wrong to a friendly and ally Power, which would sacrifice the honor of her flag and the property of their citizens, when they were occupied in lawful commerce: but, in order to avoid all discussion on a subject rather delicate, I have the honor to subjoin to this some specific propositions, founded upon justice and the Laws of Nations, as now established by the consent of a great majority of the nations of Europe, and adopted by Spain herself, which are, that no vessel of the United States, which has been detained by the subjects of His Catholic Majesty since the commencement of the war, can be deemed good prize, unless she carry articles which are contraband of war, to the enemies of Spain, or unless she be intercepted in endeavoring to enter a port inimical to Spain, which was blockaded, having been previously informed of the blockade; that, in order to determine what shall be deemed a blockade, this denomination is confined to that only where, by the disposition of the Power making the attack, the arrested vessels were sufficiently near to cause an evident danger of their entering.

That, for determining what should be deemed contraband of war, nothing ought to be acknowledged such, except the merchandises comprised under that denomination in the 24th article of the Treaty made between Spain and England on the 23d of May, 1667, or in the 24th article between France and the United States, concluded in 1778:

That His Catholic Majesty shall cause to be restored all the vessels belonging to the citizens of the United States with their cargoes, which have been taken in this war, except those which come within the above-mentioned case, with the damages due for their detention and other losses, and if it be impossible to restore them at present, that His Majesty cause to be paid to the owners the amount of their just value.

*The Prince of Peace to Mr. Pinckney.*

SAN LORENZO, Oct. 20, 1795.

SIR: Informed by yours of yesterday of the objection made to the addition proposed to be made to the last article of the Treaty relative to the permission given by His Catholic Majesty to the citizens of the United States, for three years, to deposit their merchandises at New Orleans, I repeat to you what I have already said, that I cannot vary it in the least; observing, however, that in the interval, His Majesty will have examined the medium through which the navigation may increase the commerce of his subjects, and of the citizens of the United States.

*The Prince of Peace to Mr. Pinckney.*

SAN LORENZO, Oct. 22, 1795.

SIR: Observing by yours of the 20th current, that you do not agree to the distinction made in mine of the 18th instant, of the epochs relative

to the detention of the vessels of the United States since the beginning of the war between Spain and France, lately terminated, you refer to what you expressed on the subject in yours of the 20th September last, and conclude by repeating that all detentions of the said vessels should be decided agreeably to the principles which you lay down as most consonant to the interests of the States, and conformable to the laws of nations. Without waiting to prove to you the modifications which, according to the same Laws of Nations, those principles are susceptible of, I only inform you that the vessels, detained before the 1st of April, must be judged like all those of the other Powers, according to the marine ordinance (*ordenanza de corso*) of the 1st of May, 1794, in general the United States as well as all others, until the special exception in their favor, verified on the 6th of April last, by just considerations, towards France. This is the reason why they should be judged according to the said ordinance until the epoch mentioned, from which time there is no given case; seeing that, from the moment of their detention, the vessels have been liberated; and, for the same cause, I conceive every proposition superfluous, which is not conformable to the said ordinance, and I shall not subscribe to any.

I hope you will entirely agree with me in opinion, as I cannot conclude the Treaty until this point be fully settled.

*Mr. Pinckney to the Prince of Peace.*

SAN LORENZO, October 23, 1795.

M. LE PRINCE: The propositions which I had the honor to communicate to you in my letter of the 20th current having been formed upon principles already recognised by Spain and, by the United States, I thought it the best mode for determining all discussion on the subject; for it appears clear, that where there is a difference of opinion between two independent Powers, it is a happy circumstance if they can have recourse to principles already admitted by both parties, without the one being obliged to give up his opinion, or to sacrifice his rights to the other. With this impression, I have the honor of repeating to you that I cannot agree to any proposition which does not contain substantially what I proposed to your excellency in my former representations.

I take the liberty of observing, here, that your excellency does not appear to have received correct information as to the immediate liberation of the American vessels, taken since the 6th of April last, as, out of the five carried into Santander, for which I presented a claim, to wit: the Liberty, of New York; the Maria, of Boston; the Providence, of Philadelphia; the Abigail, of New York; and the Three Friends, of Salem. The Liberty was detained one hundred and ten days; the Three Friends was detained at the departure of the last post; and the three others put to sea without a part of their cargoes, which your excellency had ordered to be restored, although I know that the officers of the marine, at

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that place, have received positive orders from your excellency for the restitution of the said vessels and effects.

As to what concerns the Treaty, I agree with your excellency that it would not be convenient to your excellency or myself to sign it until we have agreed relative to the vessels; and I can add that, even then, I cannot sign, unless the manner of navigating the river Mississippi, by the citizens of the United States, be regulated upon the principles of some one of the propositions which I have had the honor of making to you.

I have the honor to be, &c.

*Mr. Pinckney to the Prince of Peace.*

SAN LORENZO, October 24, 1795.

M. LE PRINCE: Important affairs demanding my return to England, I shall have the honor to take leave of their Majesties, as we have agreed, to-morrow; and I take the liberty of requesting you to have the usual passports expedited for my journey. Wishing to enter France by the way of Perpignan, I am desirous, also, of taking the route of Valencia and Barcelona, and shall be charmed to execute the orders with which your excellency may be pleased to honor me for any place on the road. I embrace this opportunity of testifying to your excellency my acknowledgments for the marks of good will, and for all the friendly offices, received from you during my stay here, and I pray you to accept the sentiments of respect and high consideration, with which I have the honor to be, &c.

*The Prince of Peace to Mr. Pinckney.*

SAN LORENZO, October 28, 1795.

SIR: In consequence of having yesterday signed with you a Treaty of Friendship, Limits, and Navigation, between the King my Lord and the United States of America, and of the information lately received from the Governor of Louisiana, stating that the Governor of the Natchez had advanced to occupy the post of the Barancas of Margot, comprehended within our ancient limits, and that some inhabitants of Kentucky, and of the neighboring States also, intended taking possession, His Majesty has commanded the said Governor to suspend all hostility, in case any shall have been committed on his part, or on that of the citizens of the United States, leaving matters in the situation in which they may be on the receipt of the order until the ratification of the Treaty. And he most sincerely enjoins all the military officers of the two Floridas to maintain perfect harmony with the commanders of the troops of the United States on those frontiers, as His Majesty wishes that the said Treaty may eradicate every motive of dispute which has hitherto existed, and that it will more and more strengthen the reciprocal friendship of both countries, not doubting but you will communicate every thing, without loss of time, to the President of the United States, that he may expedite similar orders for preventing

every kind of inconvenience on both sides, and perhaps an effusion of blood, now as useless as repugnant to humanity.

*Treaty of Amity, Limits, and Navigation.*

ART. 1.

ART. 2. This agrees with our proper boundary.

ART. 3. The instructions do not mention this, but I thought it might prevent disputes in future, and would have an immediate good effect with the Indians.

ART. 4. The wording of the latter part of this article seemed objectionable, and various alterations were proposed. It required much contest to obtain any alteration from the mode first proposed by Spain, whose doubts were principally founded on a jealousy of our letting in others. The substance, however, appears to me not disadvantageous, when considered as connected with the provision in the twenty-first article, and the wording fully authorized by my instructions.

ART. 5. This article occupied much time, and great prejudices were to be removed. The only part, as it now stands, which may appear objectionable, is the kind of defensive alliance we herein make with Spain against our respective Indians; and as the case was new, and the instructions not pointed on this head, I wished other modifications more for the sake of further investigation than from an opinion of disadvantage resulting from it: for, it appears to me, under our present and probable future circumstances, to be a beneficial stipulation.

ART. 6. Taken from the 7th of Prussia, with a small addition at the end, which appears to be not objectionable.

ART. 7. The first part taken from the 16th of Prussia; the latter part I added, because I considered it a good stipulation in all situations, but particularly so in Spain.

ART. 8. Taken from the 19th of France.

ART. 9. 16th of France.

ART. 10. 9th of Prussia—the last paragraph omitted.

ART. 11. 13th of Prussia—omitting the last paragraph.

ART. 12. 12th of France.

ART. 13. 20th of France.

ART. 14. 21st of France.

ART. 15. 23d of France.

ART. 16. From the 24th of France to the last paragraph, on which the greatest dissension prevailed. This conclusion is, however, the result of a composition, which I hope will not have a bad effect.

ART. 17. From the 25th of France to the last paragraph. The same remark may be made on this paragraph as was applied to the last article. It may, however, be remarked, that it is evidently to our advantage, that every precaution should be taken to prevent abuses against which this article is directed; even in this war great injury has been done to the confidence which should be reposed in the sanction of our flag, from its having

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been assumed by others; and, I am sorry to add, from unjustifiable conduct in some of our citizens.

ART. 18. From the 27th of France. This being the last of the articles relating to the neutral rights, I will here make an observation which is applicable to all this class; which is, that every stipulation in favor of these rights has appeared to be thought, by the Spanish Cabinet, a concession in favor of America. I think I have proved to the Minister, most clearly, that the amplest freedom given to neutral commerce is consonant to the true interests of Spain, but I have had almost as much trouble to obtain these stipulations as to settle other points, wherein their immediate interests were not so clear. And, after all, they are not exactly as I could wish.

ART. 19. As no commercial arrangements were made in this Treaty, this was all that could be said concerning Consuls.

ART. 20. This article appears favorable to us.

ART. 21. The part of this article which relates to our accommodation on the Mississippi, occasioned the greatest difficulty. It was our difference upon this point, and that of the spoliations, which occasioned me to ask for my passports; and the only words of warmth which have passed between the Prince de la Paz and myself, were on the subject of this article. And, on my part, I assure you, they were merely confined to repelling an expression in that line. Upon the whole, the personal conduct of the Minister to me has been perfectly satisfactory. By this article, we are insured a permanent dépôt at New Orleans, or another equivalent establishment, which I hope will prove of real utility. If good faith is observed, it certainly will, and without good faith, any article which could be inserted in a Treaty would be nugatory.

ART. 22. The written correspondence will, in part, show the various ways in which I endeavored to arrange this business. The proposal of the British principle of accommodation came from the Spanish negotiator, and was urged upon strong grounds. I trust, however, that this is, upon the whole, better than the British arrangement. There was, at first, a rooted repugnance here to insert this and the preceding article in the Treaty, in which objection the national pride seemed most concerned.

ART. 23. The time assigned for the exchange of the ratifications was made so short, because I knew the Senate would be assembled at the time when this Treaty may be expected to arrive, and because some stipulations beneficial to us cannot be executed till after this exchange.

*Mr. Pinckney to Mr. Randolph.*

SAN LORENZO, Oct. 28, 1795.

DEAR SIR: I herewith send to you a Treaty which I have just signed conjointly with the Prince de la Paz, His Catholic Majesty's first Minister and Plenipotentiary for negotiating this business. The stipulations which it contains have been formed to the best of my judgment, in con-

formity to my instructions, and where they left a latitude to the negotiator, according to what I conceived the interest of our country; and I sincerely believe them to be placed on the most advantageous footing which we could, at this time, obtain by friendly negotiation. I enclose copies of the written correspondence which passed between the Minister and myself, since my letter of the 30th of September, which covered our written negotiation to that time. These will throw some light on points in the Treaty which may require it, and render it unnecessary for me to give you a long detail of the oral part of the negotiation, which was frequent, diffuse, and extensive. I, however, took care to bring forward the written documents herewith which relate to the most material points. I can safely say that, if the Treaty be defective, it has not originated in want of assiduity. You will observe by my note of the 24th of October, that I found the difficulties of such an accommodation as I could accede to were so insuperable that I had asked for my passports to return. This may illustrate the difficulties I had to encounter, and the prejudices to be removed, which it requires some knowledge of the national character fully to conceive. The peace concluded between this country and France, and the pacific disposition (at least exteriorly) exhibited to Spain by the British Cabinet, added to our critical situation with the last Power, rendered this negotiation more difficult than it might otherwise have been. With respect to commercial arrangements, you will find that, in the outset of the negotiation, I endeavored strenuously to urge a close connexion; but finding the mind of the Minister completely made up on this point, and that he advanced reasons for delaying arrangements of this nature, which appeared to me to be founded on the true interests of Spain, connected with views to other nations at this juncture, I have lately ceased to insist on this subject; besides which, I believe they wish to reserve the commercial advantages they can offer as the equivalent for a guarantee of their American possessions.

I am informed by the Secretary of State here, that he has lately received advice, that a party of ours having advanced to the Muscle Shoals, on the Tennessee, and threatening to take possession of an advantageous post called the Barancas de Margot, the Spanish Commandant had sent a party to occupy that post; but the Minister assures me that he has sent orders to the commanding officer in the Floridas to abstain from all hostile operations.

I purpose setting out on my return in a few days. Mr. Charles Rutledge will remain here as Chargé des Affaires, by appointment of Mr. Short. I mentioned him to you in my letter of the 30th September, and I now enclose an extract from that letter, which concerns him, lest the first may have miscarried.

I am, my dear sir, with esteem, your faithful and obedient servant,

THOMAS PINCKNEY.

*Treaty with Spain.**Treaty between the United States and Spain.*

His Catholic Majesty and the United States of America desiring to consolidate on a permanent basis the friendship and good correspondence which happily prevails between the two parties, have determined to establish, by a Convention, several points, the settlement whereof will be productive of general advantage and reciprocal utility to both nations.

With this intention His Catholic Majesty has appointed the Most Excellent Lord Don Manuel de Godoy and Alvarez de Faria, Rios, Sanchez, Zarzosa, Prince de la Paz, Duke de la Alcudia, Lord of the Soto de Roma and of the State of Albala, Grandee of Spain of the first class, Perpetual Régidor of the city of Santiago, Knight of the illustrious order of the Golden Fleece and Great Cross of the royal and distinguished Spanish order of Charles III, Commander of Valencia del Ventoso, Rivera, and Aceuchal in that of Santiago, Knight and Great Cross of the religious order of St. John, Counsellor of State, First Secretary of State and Despacho, Secretary to the Queen, Superintendent General of the ports and highways, Protector of the Royal Academy of the Noble Arts and of the Royal Societies of Natural History, Botany, Chemistry, and Astronomy, Gentleman of the King's Chamber in employment, Captain General of his Armies, Inspector and Major of the Royal Corps of Body Guards, &c., &c., &c.; and the President of the United States, with the advice and consent of their Senate, has appointed Thomas Pinckney, a citizen of the United States, and their Envoy Extraordinary to His Catholic Majesty. And the said Plenipotentiaries have agreed upon and concluded the following articles:

ARTICLE 1. There shall be a firm and inviolable peace and sincere friendship between His Catholic Majesty, his successors and subjects, and the United States and their citizens, without exception of persons or places.

ART. 2. To prevent all disputes on the subject of the boundaries which separate the territories of the two high contracting parties, it is hereby declared and agreed as follows, to wit: the Southern boundary of the United States, which divides their territory from the Spanish colonies of East and West Florida, shall be designated by a line beginning on the river Mississippi at the northernmost part of the thirty-first degree of latitude North of the equator, which from thence shall be drawn due East to the middle of the river Apalachicola, or Chatahoochee; thence along the middle thereof to its junction with the Flint; thence straight to the head of St. Mary's river; and thence down the middle thereof to the Atlantic Ocean. And it is agreed that, if there should be any troops, garrisons, or settlements of either party in the territory of the other, according to the above-mentioned boundaries, they shall be withdrawn from the said territory within the term of six months after the ratification of this Treaty, or sooner if possible; and that they shall be permitted to take

with them all the goods and effects which they possess.

ART. 3. In order to carry the preceding article into effect, one Commissioner and one Surveyor shall be appointed by each of the contracting parties, who shall meet at the Natchez, on the left side of the river Mississippi, before the expiration of six months from the ratification of this convention, and they shall proceed to run and mark this boundary according to the stipulations of the said article. They shall make plats and keep journals of their proceedings, which shall be considered as part of this convention, and shall have the same force as if they were inserted therein. And, if on any account, it should be found necessary that the said Commissioners and Surveyors should be accompanied by guards, they shall be furnished in equal proportions by the commanding officer of His Majesty's troops in the two Floridas, and the commanding officer of the troops of the United States in their Southwestern territory, who shall act by common consent and amicably, as well with respect to this point, as to the furnishing of provisions and instruments, and making every other arrangement which may be necessary or useful for the execution of this article.

ART. 4. It is likewise agreed that the Western boundary of the United States, which separates them from the Spanish colony of Louisiana, is in the middle of the channel or bed of the river Mississippi, from the Northern boundary of the said States to the completion of the thirty-first degree of latitude North of the equator. And his Catholic Majesty has likewise agreed that the navigation of the said river, in its whole breadth, from its source to the ocean, shall be free only to his subjects and the citizens of the United States, unless he should extend this privilege to the subjects of other Powers by special convention.

ART. 5. The two high contracting parties shall, by all the means in their power, maintain peace and harmony among the several Indian nations who inhabit the country adjacent to the lines and rivers which, by the preceding articles, form the boundaries of the two Floridas. And the better to obtain this effect, both parties oblige themselves expressly to restrain, by force, all hostilities on the part of the Indian nations living within their boundary; so that Spain will not suffer her Indians to attack the citizens of the United States, nor the Indians inhabiting their territory; nor will the United States permit these last-mentioned Indians to commence hostilities against the subjects of His Catholic Majesty, or his Indians, in any manner whatever. And whereas several Treaties of friendship exist between the two contracting parties and the said nations of Indians, it is hereby agreed that, in future, no Treaty of Alliance, or other whatever, (except Treaties of Peace,) shall be made by either party with the Indians living within the boundary of the other, but both parties will endeavor to make the advantages of the Indian trade common and mutually beneficial to their respective subjects and citizens, observing in all things the most complete reciprocity; so that both parties may obtain the advantages ari-



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sing from a good understanding with the said nations, without being subject to the expense which they have hitherto occasioned.

ART. 6. Each party shall endeavor, by all means in their power, to protect and defend all vessels and other effects belonging to the citizens or subjects of the other, which shall be within the extent of their jurisdiction, by sea or by land, and shall use all their efforts to recover, and cause to be restored to the right owners, their vessels and effects which have been taken from them within the extent of their said jurisdiction, whether they are at war or not with the Power whose subjects have taken possession of the said effects.

ART. 7. And it is agreed that the subjects or citizens of each of the contracting parties, their vessels or effects, shall not be liable to any embargo or detention on the part of the other, for any military expedition, or other public or private purpose whatever. And in all cases of seizure, detention, or arrest, for debts contracted, or offences committed, by any citizen or subject of the one party within the jurisdiction of the other, the same shall be made and prosecuted by order and authority of law only, and according to the regular course of proceedings usual in such cases. The citizens and subjects of both parties shall be allowed to employ such advocates, solicitors, notaries, agents, and factors, as they may judge proper in all their affairs, and in all their trials at law in which they may be concerned before the tribunals of the other party, and such agents shall have free access to be present at the proceedings in such causes, and at the taking of all examinations and evidence which may be exhibited in the said trials.

ART. 8. In case the subjects and inhabitants of either party, with their shipping, whether public and of war, or private and of merchants, be forced, through stress of weather, pursuit of pirates or enemies, or any other urgent necessity, for seeking of shelter and harbor, to retreat and enter into any of the rivers, bays, roads, or ports, belonging to the other party, they shall be received and treated with all humanity, and enjoy all favor, protection, and help; and they shall be permitted to refresh and provide themselves, at reasonable rates, with victuals, and all things needful for the sustenance of their persons, or reparation of their ships and prosecution of their voyage; and they shall no ways be hindered from returning out of the said ports or roads, but may remove and depart when and whither they please, without any let or hindrance.

ART. 9. All ships and merchandise of what nature soever, which shall be rescued out of the hands of any pirates or robbers on the high seas, shall be brought into some port of either State, and shall be delivered to the custody of the officers of that port, in order to be taken care of and restored entire to the true proprietor, as soon as due and sufficient proof shall be made concerning the property thereof.

ART. 10. When any vessel of either party shall be wrecked, foundered, or otherwise damaged, on the coasts, or within the dominion of the other,

their respective subjects or citizens shall receive, as well for themselves as for their vessels and effects, the same assistance which would be due to the inhabitants of the country where the damage happens, and shall pay the same charges and dues only as the said inhabitants would be subject to pay in a like case: and if the operations of repair would require that the whole or any part of the cargo be unladen, they shall pay no duties, charges, or fees, on the part which they shall relade and carry away.

ART. 11. The citizens and subjects of each party shall have power to dispose of their personal goods within the jurisdiction of the other by testament, donation, or otherwise, and their representatives, being subjects or citizens of the other party, shall succeed to their said personal goods, whether by testament, or *ab intestato*, and they may take possession thereof, either by themselves or others acting for them, and dispose of the same at their will, paying such dues only as the inhabitants of the country wherein the said goods are shall be subject to pay in like cases. And in case of the absence of the representatives, such care shall be taken of the said goods as would be taken of the goods of a native in like cases, until the lawful owner may take measures for receiving them. And if question shall arise among several claimants to which of them the said goods belong, the same shall be decided finally by the laws and judges of the land wherein the said goods are. And where, on the death of any person holding real estate within the territories of the one party, such real estate would by the laws of the land descend on a citizen or subject of the other were he not disqualified by being an alien, such subject shall be allowed a reasonable time to sell the same, and to withdraw the proceeds without molestation, and exempt from all rights of detraction on the part of the Government of the respective States.

ART. 12. The merchant ships of either of the parties which shall be making into a port belonging to the enemy of the other party, and concerning whose voyage and the species of goods on board her there shall be just grounds of suspicion, shall be obliged to exhibit, as well upon the high seas as in the ports and havens, not only her passports, but likewise certificates expressly showing that her goods are not of the number of those which have been prohibited as contraband.

ART. 13. For the better promoting of commerce on both sides, it is agreed that, if a war shall break out between the said two nations, one year after the proclamation of war shall be allowed to the merchants in the cities and towns where they shall live for collecting and transporting their goods and merchandises; and if anything be taken from them, or any injury be done them, within that term by either party, or the people or subjects of either, full satisfaction shall be made for the same by the Government.

ART. 14. No subject of his Catholic Majesty shall apply for or take any commission or letters of marque for arming any ship or ships, to act as privateers against the said United States, or against

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the citizens, people, or inhabitants of the said United States, or against the property of any of the inhabitants of any of them, from any Prince or State with which the said United States shall be at war.

Nor shall any citizen, subject, or inhabitant of the said United States apply for, or take any commission or letters of marque for arming any ship or ships, to act as privateers against the subjects of His Catholic Majesty, or the property of any of them, from any Prince or State with which the said King shall be at war. And if any person of either nation shall take such commissions or letters of marque, he shall be punished as a pirate.

ART. 15. It shall be lawful for all and singular the subjects of His Catholic Majesty, and the citizens, people, and inhabitants of the said United States, to sail with their ships with all manner of liberty and security, no distinction being made who are the proprietors of the merchandises laden thereon, from any port, to the places of those who now are, or hereafter shall be, at enmity with His Catholic Majesty or the United States. It shall be likewise lawful for the subjects and inhabitants aforesaid to sail, with the ships and merchandises aforementioned, and to trade with the same liberty and security, from the places, ports, and havens of those who are enemies of both or either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy aforementioned to neutral places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of the same Prince or under several; and it is hereby stipulated that free ships shall also give freedom to goods, and that everything shall be deemed free and exempt, which shall be found on board the ships belonging to the subjects of either of the contracting parties, although the whole lading or any part thereof, should appertain to the enemies of either: contraband goods being always excepted. It is also agreed, that the same liberty be extended to persons who are on board a free ship, so that, although they be enemies to either party, they shall not be made prisoners or taken out of that free ship, unless they are soldiers, and in actual service of the enemies.

ART. 16. This liberty of navigation and commerce shall extend to all kinds of merchandises, excepting those only which are distinguished by the name of contraband; and under this name of contraband or prohibited goods, shall be comprehended arms, great guns, bombs with the fuses, and the other things belonging to them, cannon ball, gunpowder, match, pikes, swords, lances, spears, halberds, mortars, petards, grenades, salt-petre, muskets, musket ball, bucklers, helmets, breastplates, coats of mail, and the like kinds of arms, proper for arming soldiers, musket rests, belts, horses with their furniture, and all other warlike instruments whatever. These merchandises which follow, shall not be reckoned among contraband or prohibited goods; that is to say, all sorts of cloths, and all other manufactures woven of any wool, flax, silk, cotton, or any other materials whatever, all kinds of wearing apparel, to-

gether with all species whereof they are used to be made; gold and silver as well coined as uncoined, tin, iron, latten, copper, brass, coals; as also wheat barley, and oats, and any other kind of corn and pulse; tobacco, and likewise all manner of spices, salted and smoked flesh, salted fish, cheese and butter, beer, oils, wines, sugars, and all sorts of salts, and, in general, all provisions which serve for the sustenance of life; furthermore, all kinds of cotton, hemp, flax, tar, pitch, ropes, cables, sails, sail cloths, anchors, and any parts of anchors; also ships, masts, planks, and wood of all kinds, and all other things proper either for building or repairing ships, and all other goods whatever which have not been worked into the form of any instrument prepared for war, by land or by sea, shall not be reputed contraband, much less such as have been already wrought and made up for any other use; all which shall be wholly reckoned among free goods; as likewise all other merchandises and things which are not comprehended and particularly mentioned in the foregoing enumeration of contraband goods; so that they may be transported and carried in the freest manner by the subjects of both parties, even to places belonging to an enemy, such towns or places being only excepted as are at that time besieged, blocked up, or invested. And except the cases in which any ship of war or squadron shall, in consequence of storms, or other accidents at sea, be under the necessity of taking the cargo of any trading vessel or vessels, in which case they may stop the said vessel or vessels, and furnish themselves with necessaries, giving a receipt, in order that the Power to whom the said ship of war belongs, may pay for the articles so taken, according to the price thereof at the port to which they may appear to have been destined by the ship's papers; and the two contracting parties engage that the vessels shall not be detained longer than may be absolutely necessary for their said ships to supply themselves with necessaries; that they will immediately pay the value of the receipts, and indemnify the proprietor for all losses which he may have sustained in consequence of such transaction.

ART. 17. To the end that all manner of dissensions and quarrels may be avoided and prevented, on one side and the other, it is agreed that, in case either of the parties hereto should be engaged in a war, the ships and vessels belonging to the subjects or people of the other party must be furnished with sea letters or passports, expressing the name, property, and bulk of the ship, as also the name and place of habitation of the master or commander of the said ship, that it may appear thereby that the ship really and truly belongs to the subjects of one of the parties; which passport shall be made out and granted according to the form annexed to this Treaty. They shall likewise be recalled every year, that is, if the ship happens to return home within the space of a year. It is likewise agreed that such ships, being laden, are to be provided, not only with passports, as above mentioned, but also with certificates, containing the several particulars of the cargo, the place whence the ship sailed, that so it may be known whether

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any forbidden or contraband goods be on board the same; which certificate shall be made out by the officers of the place whence the ship sailed, in the accustomed form; and if any one should think it fit or advisable to express in the said certificates the person to whom the goods on board belong, he may freely do so; without which requisites they may be sent to one of the ports of the other contracting party, and adjudged by the competent tribunal, according to what is above set forth, that all the circumstances of this omission having been well examined, they shall be adjudged to be legal prizes, unless they shall give legal satisfaction of their property by testimony entirely equivalent.

ART. 18. If the ships of the said subjects, people, or inhabitants of either of the parties shall be met with, either sailing along the coasts or on the high seas, by any ship of war of the other, or by any privateer, the said ship of war or privateer, for the avoiding of any disorder, shall remain out of cannon shot, and may send their boats aboard the merchant ship which they shall so meet with, and may enter her, to the number of two or three men only, to whom the master or commander of such ship or vessel shall exhibit his passports concerning the property of the ship, made out according to the form inserted in this present Treaty; and the ship, when she shall have showed such passport, shall be free, and at liberty to pursue her voyage, so as it shall not be lawful to molest or give her chase in any manner, or force her to quit her intended course.

ART. 19. Consuls shall be reciprocally established, with the privileges and powers which those of the most favored nations enjoy in the ports where their Consuls reside, or are permitted to be.

ART. 20. It is also agreed that the inhabitants of the territories of each party shall, respectively, have free access to the Courts of Justice of the other, and they shall be permitted to prosecute suits for the recovery of their properties, the payment of their debts, and for obtaining satisfaction for the damages which they may have sustained, whether the persons whom they may sue be subjects or citizens of the country in which they may be found, or any other persons whatsoever who may have taken refuge therein; and the proceedings and sentences of the said Courts shall be the same as if the contending parties had been subjects or citizens of the said country.

ART. 21. In order to terminate all differences, on account of the losses sustained by the citizens of the United States, in consequence of their vessels and cargoes having been taken by the subjects of His Catholic Majesty during the late war between Spain and France, it is agreed that all such cases shall be referred to the final decision of Commissioners, to be appointed in the following manner: His Catholic Majesty shall name one Commissioner, and the President of the United States, by and with the advice and consent of their Senate, shall appoint another, and the said two Commissioners shall agree on the choice of a third, or, if they cannot agree so, they shall each propose one person, and of the two names so proposed, one shall be drawn, by lot, in the presence of the two

original Commissioners, and the person whose name shall be so drawn shall be the third Commissioner; and the three Commissioners so appointed, shall be sworn impartially to examine and decide the claims in question, according to the merits of the several cases, and to justice, equity, and the Laws of Nations. The said Commissioners shall meet and sit at Philadelphia; and in the case of the death, sickness, or necessary absence of any such Commissioner, his place shall be supplied in the same manner as he was first appointed, and the new Commissioner shall take the same oaths, and do the same duties. They shall receive all complaints and applications authorized by this article, during eighteen months from the day on which they shall assemble. They shall have power to examine all such persons as come before them, on oath or affirmation, touching the complaints in question, and also to receive in evidence all written testimony, authenticated in such manner as they shall think proper to require or admit. The award of the said Commissioners, or any two of them, shall be final and conclusive, both as to the justice of the claim and the amount of the sum to be paid to the claimants; and His Catholic Majesty undertakes to cause the same to be paid in specie, without deduction, at such times and places, and under such conditions as shall be awarded by the said Commissioners.

ART. 22. The two high contracting parties, hoping that the good correspondence and friendship which happily reigns between them will be further increased by this Treaty, and that it will contribute to augment their prosperity and opulence, will in future give to their mutual commerce all the extension and favor which the advantages of both countries may require.

And in consequence of the stipulations contained in the fourth article, His Catholic Majesty will permit the citizens of the United States, for the space of three years from this time, to deposit their merchandises and effects in the port of New Orleans, and to export them from thence, without paying any other duty than a fair price for the hire of the stores; and His Majesty promises, either to continue this permission, if he finds, during that time, that it is not prejudicial to the interests of Spain, or, if he should not agree to continue it there, he will assign to them, on another part of the banks of the Mississippi, an equivalent establishment.

ART. 23. The present Treaty shall not be in force until ratified by the contracting parties, and the ratifications shall be exchanged in six months from this time, or sooner if possible.

In witness whereof, we, the undersigned Plenipotentiaries of His Catholic Majesty and of the United States of America, have signed this present Treaty of Friendship, Limits, and Navigation, and have thereunto affixed our seals, respectively.

Done at San Lorenzo el Real, this twenty-seventh day of October, one thousand seven hundred and ninety-five.

THOMAS PINCKNEY, [L. S.]  
EL PRINCIPE DE LA PAZ, [L. S.]

*Sites for Arsenals—Military Stores.***SITES FOR ARSENALS.**

Report of the SECRETARY OF WAR, on the measures which have been pursued to obtain proper sites for Arsenals; which is respectfully submitted to the House of Representatives of the United States.

It having been determined to erect one arsenal on the Potomac, and another in South Carolina; the latter in a situation to and from which water transportation would be afforded, and the former in the vicinity of a number of iron works; the necessary orders were given, in the year 1794, for exploring both countries. The agent employed on the former, reported, in the same year, in favor of a situation about twenty-five miles below the Blue Ridge, where a number of circumstances invited the establishment. In an undertaking, however, of such importance and permanency, it was deemed expedient to make another examination. This was done last Spring. The engineer employed, pursuant to his instructions, reported the situation of various places where it would be practicable to erect the necessary works and magazines, with their respective advantages and disadvantages; and at what prices they could probably be obtained. These were all extremely high, and one far exceeded the whole appropriation for all the arsenals proposed to be erected. For this reason, another place, comprehending several lots of land, had the preference, and the requisite negotiations were begun for making the purchases. Before these were concluded, the attention of the Executive was called to another situation on the Potomac, possessing, with some difficulties to be encountered, apparently many important advantages. The engineer was again instructed to examine this place, from whence he has lately returned. The American gentleman, well acquainted with the country, and who assisted him in this examination, was to have transmitted a survey of the place referred to, and of the adjacent waters, on which the engineer's report would be completed. The survey has not yet been received, and the determination of the Executive is consequently suspended.

The engineer employed, for the like purpose, in South Carolina, made a report, which was received early in the last Summer. He had explored that part of the country to which his attention had been directed by the Executive. He also examined another. The latter, independent of its being in a more healthful situation, was deemed by him to possess some other advantages over the former. However, he proposed to visit the Seat of Government, and personally explain his ideas of the subject. This visit was waited for, but not made: no decision has consequently been taken on his report.

The prices of lands and mill-seats (for the latter must be comprehended in the plan of an arsenal) so far exceeded those upon which the calculations were made, when the plan of erecting arsenals was projected, and rose so rapidly soon after, it is now found that the whole appropriation, for the three or four arsenals which the Executive was

authorized by law to erect, would be inadequate for a single new establishment. Hence the principal object, in the measures pursued during the last Summer, was to ascertain and secure the most eligible site on the Potomac, where magazines could be erected, and certain military stores be collected and safely deposited; and where, afterwards, the works necessary in the formation of all the implements of war, might be erected, as the requisite funds could be provided.

In a country where such establishments are unknown, and where the actual state of things admits of a suspension of some of them, consistently with the public safety, it would seem expedient to make an experiment with *one*, in a central position. The obvious principles of economy recommend this caution, and the avoiding of defects likely to appear in a first attempt, and the probability of solid improvements which experience would suggest, in a second, strongly enforce it.

Springfield, in the State of Massachusetts, was at once fixed on as a proper situation for the arsenal to be established in the Eastern division of the States. Magazines for military stores had been formerly erected at that place. Some additional buildings have been made, and a number of workmen collected for the purpose of repairing and manufacturing small arms. The former has been executed, and the latter commenced.

**TIMOTHY PICKERING.**

DEPARTMENT OF WAR, *Dec. 12, 1795.*

**MILITARY STORES.**

Report of the SECRETARY OF WAR, on the measures which have been taken to replenish the Magazines with Military Stores.

In respect to some of the most essential articles, the stock on hand is respectable; and as to others, the magazines are now not ill supplied.

A contract has been made for a large quantity of saltpetre; and probably it is now on its way from India. This important article may, however, be obtained in the Western parts of the United States. The fact is ascertained. Forty or fifty tons have been brought from those parts to Philadelphia for sale; and it is said that several hundred tons might be procured, in the same way, in the course of the next Summer, if needed.

To increase the stock of small arms, and to render serviceable those already in the public stores, two sets of armorers have been employed, to wit, at Springfield, in Massachusetts, and at New London, in Virginia, in repairing arms, and preparing to manufacture the most essential parts of muskets; and some specimens have been produced which prove their capacity to equal, in that article, the manufacture of any country in the world. All the arms in the magazines in Philadelphia have been repaired; with some thousands at West Point, where the residue are now repairing.

In addition to these sources of supply—besides two thousand rifles which have been purchased—contracts have been made, and are executing, for

## Fortifications.

seven thousand muskets, to be manufactured in the United States. The present period may be deemed an unfavorable one to carry on such manufactures, on account of the high price of labor. Nevertheless, it seemed important to secure the services of the manufacturers, when they might be of the highest necessity, by continuing to furnish them employment. Such muskets as are manufactured are after the model of the French arms, which compose by far the greatest part of those in our magazines. For this reason, and because they are preferable to those of any other nation known in the United States, it was apparently inexpedient to make an importation of arms from Europe, seeing a supply was not to be expected from France, and the situation of the United States not rendering the measure of an immediate importation indispensable.

The casting of cannon has not been attended hitherto with the expected success. The foundries which formerly succeeded very well in the casting of small guns, were not well adapted to the casting of 24 and 32-pounders. A French gentleman, of some knowledge and experience in cannon foundries, has lately been employed to amend the process of casting, and to improve the machinery for boring; and there is room to hope that his projected improvements will be realized. Nevertheless, in an undertaking so important, and at the same time so expensive, it was desirable to obtain, if possible, a complete cannon founder; and, from the information received, it seemed probable that one might be procured from one of the first foundries in Europe. Measures for that purpose have accordingly been taken.

All which is respectfully submitted to the House of Representatives of the United States.

TIMOTHY PICKERING.

DEPARTMENT OF WAR, Dec. 12, 1795.

## FORTIFICATIONS.

Report from the Department of War, relative to the Fortifications of the Ports and Harbors of the United States.

*Portland, in the District of Maine.*—The works consist of a fort, a citadel, a battery for ten pieces of cannon, an artillery store, a guard House, an air furnace for heating shot, and a covered way from the fort to the battery.

The works are substantially executed, except the covered way; to complete this (the earth on the spot being of a bad quality) with the necessary supports of stones and sods, is estimated at four hundred dollars. Leveling the earth round the works, fencing the land pertaining to them, a pump for the well, painting the wood work, and rendering the whole perfectly complete; the estimate is four hundred and seventy-one dollars: in the whole, eight hundred and seventy-one dollars.

*Portsmouth, New Hampshire.*—The works consist of a fort, a citadel, an artillery store, and a reverberatory furnace. These are all completed

excepting a little carpenter's work, suspended to let the wood season, and which may cost about fifty dollars. But a small and unforeseen expense must be incurred for a drain to carry the water from the magazine, and may cost one hundred dollars.

*Gloucester, Cape Ann.*—The works consist of a battery and a citadel. These are completed. But to inclose the fort towards the town, the cost is estimated at one thousand four hundred dollars. This, however, may be postponed till circumstances require it to be done.

*Salem.*—The works, consisting of a fort and a citadel, have been erected. A gate remains to be made, and some repairs to the walls.

*Marblehead.*—A battery and a citadel have been erected. Any other works may be suspended until circumstances shall change.

*Newport, Rhode Island.*—For the defence of this harbor there have been erected on Goat Island a fort, a citadel, and an air furnace. The excellence and importance of this harbor in the time of war, recommend a further expenditure to render the defence complete. To finish the fort, erect an artillery store, and make a covered way round it, as in a regular fortification, the expense is estimated at about six thousand dollars.

There has also been erected a citadel on Tammany Hill, back of the town of Newport, for the protection of its inhabitants; and a battery and guard-house at Howland's Ferry, at the northern end of the island, to keep open a communication with the main in case of an invasion. But to secure effectually this communication, a citadel should be erected on Butt's Hill, that position commanding Howland's Ferry and Bristol Ferry. The cost of it is estimated at eighteen hundred dollars.

*New London.*—The works consist of a fort and citadel on the Groton side of the harbor, and of a fort, a citadel, and an air furnace on the New London side. They remain incomplete. Under present circumstances a small expenditure may be proper merely to preserve what has been done.

*New York.*—Governor's Island has been fortified with a fort made of earth, and two batteries under its protection, partly lined with brick masonry, two air-furnaces, a large powder magazine, and barrack for the garrison; the whole completed.

*Philadelphia.*—A large pier, as the foundation for a battery on a sand-bar opposite Mud Island, to make a cross fire, has been completed. A fort on Mud Island is about half done, and a citadel has been erected. To complete the fort, and on a plan much more circumscribed than was at first projected, the expense is estimated at fifteen thousand dollars.

*Wilmington, Delaware.*—Nothing has been done. The project of erecting a fort there has been abandoned as useless.

*Baltimore.*—A battery and barracks have been constructed, and some guns are mounted.

*Annapolis.*—Some progress had been made in the construction of a fort and battery, and a barrack has been erected. But an examination of



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the works by an engineer, other than the one first employed, produced an unfavorable report of the plan and of the works, and under actual circumstances, induced a relinquishment of them.

*Alexandria.*—A similar report as to the plan and situation of the work at this place, induced a like relinquishment.

*Norfolk.*—Two forts intended to cross their fire are erected on the opposite sides of the harbor. The one on the Norfolk side, with barracks and a powder magazine, is completed. The other, Fort Neilson, on the Portsmouth side, is very far advanced, and a powder magazine has been erected. The principal work remaining to be done is opening of seven embrasures, completing one ditch of three hundred and sixty feet long, completing the glacis, and removing the earth from within side of the fort, where it is two feet and a half too high. The expense of doing this, and completing the fortification, may be estimated at five thousand dollars.

*Ocracock, North Carolina.*—The defence proposed was to erect a fort on Beacon Island. The foundation was laid in 1794. The situation is so far removed (about ninety miles) from any inhabitants, and so exposes any works to injuries from storms, that nothing but an impending or actual war would seem to authorize the construction of a fort there, and furnishing it with a proper garrison.

*Wilmington, North Carolina.*—The battery on the whole front of the fort has been completed, and a barrack and powder magazine have been erected.

*Georgetown, South Carolina.*—A battery was begun, and materials collected, when the work was suspended, the owner of the land previously desiring to ascertain the terms on which it was to be occupied for the fortification, and for the road of communication with it. The unhealthiness of the situation, and other circumstances, authorize an abandonment of the work until war, actual or impending, shall require it to be resumed.

*Charleston, South Carolina.*—The work planned for Sullivan's Island, of which the foundation only was laid in 1794, being on a scale supposed too extensive for the funds destined to this service, was directed to be left as it was. For the same reason, a new work proposed by the engineer, on a point on the opposite side of the harbor from Fort Johnson, was not attempted. A battery has been erected in the town by the mechanics.

There remained only Fort Johnson, on which directions were given to make such repairs as would preserve the works already constructed, and render them serviceable. The engineer omitted the work. The officer in command at the fort has undertaken to make the necessary repairs for the works and barracks; and his intelligence and experience leave no room to doubt but these will be done.

*Savannah, Georgia.*—The work consists of a battery, at present destined only for six guns, made of timber filled with earth, enclosed behind

with pickets, with a guard-house for the garrison, which were in train to be completed early in the last autumn.

*St. Mary's, Georgia.*—The work consists of a battery made of timber filled with earth, enclosed with pickets. By the personal report of the superintendent, it must have been completed.

*General Remark.*—The few ports of the highest importance to the commerce of the United States, in situations to demand, for their security, fortifications of such kinds and extent as cannot suddenly be erected, prudence may require to have fortified in time of peace, and with durable materials.

TIMOTHY PICKERING.

WAR OFFICE, *January 16, 1796.*

A statement of the progress in providing materials for the frigates, and in building them.

If the frigates had been constructed with the timber at hand, in the several places where they were destined to be built, they might by this time have been completed. But the design of rendering them permanently useful having determined the Executive to have them constructed with live oak and cedar, the measures deemed necessary and adequate to the procuring of those materials were taken during the last year. The common and easy acquisition of those articles for the ordinary service of the merchants, forbade any apprehensions of extraordinary difficulty in procuring the same for the frigates. But in the experiment it has been found, that timber of the lengths and sizes necessary for frigates, was greatly dispersed, and grew generally in places difficult of access, and required extraordinary means of transportation to the landing. The natural difficulties of the country have been increased by unusual quantities of rain. Ship carpenters were sent from the Northern States to the islands, bearing the live oak, and employed during the last winter in cutting and hewing the timber: but the climate deterred them from staying to prosecute their work; so that three men only capable of selecting the proper timber, and moulding it in the requisite forms, have been prevailed upon to remain. These, with negro laborers, have continued the work, and are still employed. With these, however, it was judged practicable to procure the whole of the live oak timber by the month of May, 1796. Such was the report of an intelligent agent employed in Georgia during the last winter, and who has now returned thither to superintend, and, as far as possible, to expedite the operations.

Upon this report, made in June last, it was judged eligible to concentrate the efforts that were making to furnish the yards with live oak timber, and accordingly orders were given to accumulate, at two of the yards, so much of it as would be necessary to complete two frigates by the ensuing Spring. But before these orders could reach the manager, several vessels were despatched to different yards; and one was cast away and her cargo lost. Some difficulty occur-

*Building of Frigates.*

ring in procuring proper vessels to transport the timber, several of those which had made one voyage having encountered such hardships and sickness as to be deterred from making a second.

Nevertheless, under all these embarrassments, the work is continued, and with the well grounded expectation, before expressed, that all the live oak timber will be cut and transported to the different ship yards, at furthest, by the next midsummer.

Details of the quantities of timber and other materials already provided, and of the progress in building, will appear in the annexed schedules. The live oak and white oak timber mentioned, are generally or wholly moulded and dressed, and ready for raising.

Since draughting the foregoing report, a letter has been received from the chief carpenter employed in procuring timber in Georgia, presenting a very favorable account of his progress. Two vessels laden with live oak had recently sailed for the two yards of Philadelphia and Baltimore, and the rest of the timber to complete the frames of the frigates building at those places, was cut, and ready to be shipped. These were the two frigates, which, as before mentioned, it was proposed first to finish. The chief carpenter adds that if he is furnished with vessels fit for the service, he will have all the timber in the six yards in the month of May next, excepting the knees, all of which he thinks cannot be got of live oak. The agent who engages the vessels for transporting the timber has no doubt of procuring timely all that will be wanted for the service.

Sail cloth has been provided for one suit of sails for each of the frigates. It was contracted for and manufactured in the United States in the year 1794. It has been proposed to procure one kind of foreign cloth, of a superior quality; for the second suit; but the purchase has been suspended to avoid an expenditure of money until it could be ascertained at what time the cloth would actually be wanted to equip the frigates. For the like reason, no more hemp has been purchased than will be required for the cordage of the two frigates, the building of which it was intended to advance in preference to the others, and which it was then hoped would be constructed by the close of the next Spring. For the same cause the number of anchors which will eventually be required, remains incomplete.

All which is respectfully submitted to the House of Representatives of the United States.

**TIMOTHY PICKERING.**

DEPARTMENT OF WAR, Dec. 12, 1795.

Statement of the progress made in building a frigate at Philadelphia to carry 44 guns, under the direction of Mr. Joshua Humphreys, Naval Constructor, and Captain John Barry, Superintendent.

The keel is completed and laid on the blocks; the pieces are scarphed and bolted to each other in the best manner. The stern frame is complete and ready for raising; about two-thirds of the live oak for the frame is received, nearly all of

which is worked agreeable to the moulds, and many of the frames are together, and bolted, and ready to put into the ship; two-thirds of the plank for outside and ceiling, are received, and about one-third for the wales; the remainder is nearly ready. The beams for the orlop deck are all procured and worked, and many of the upper deck beams are likewise worked, and the remainder are expected to arrive daily; a large quantity of live oak knees have arrived for the security of the decks, and pieces for combings for the hatchways, partners for the masts and several other purposes are ready. The masts, bowsprit, yards, and the other spars are procured, several of which are received. The copper necessary for securing the various parts of the ship, and for sheathing the bottom, is in the public stores. The iron work is now preparing and ready for delivery as fast as it is wanted. The boiler for boiling the white oak plank in salt water, to render it durable in the greatest possible proportion to live oak, is completed. All the anchors are procured, and the hemp for the cables and materials is now spinning and preparing. All the canvass necessary for one suit of sails is in the public stores. The blocks for the rigging are manufacturing, and a great part are ready for delivery. Kentledge for ballast is all cast and delivered. A contract for the trenails has been made, and next month appointed for delivery. Bunting for the colors is on hand, and a great number of smaller articles for the hull, rigging, and equipping the ship, are stored in the public stores.

Statement of the progress made in building a frigate to carry 44 guns, at New York, under the direction of Mr. Foreman Cheeseman, Naval Constructor, and Captain Silas Talbot, Superintendent.

The keel is completed and laid on the blocks; the pieces are scarphed and bolted to each other in the best manner. The stern frame is not yet complete; several transoms are wanting; about one quarter of the live oak timbers for the frame of the ship are arrived, all of which are worked to the moulds. Timber for the gun deck and lower deck beams are received, and the plank for those decks is ready. The copper and trenails are all in the public stores. The plank for the outside of the ship as well as the ceiling, are nearly all cut; great part are put into the sea water to draw out the sap and to season them. The carlings, ledges, combings for the hatchways and bits, are sawing in the yards. The masts, bowsprit, yards, and spars, are procured and ready for finishing. The kentledge for ballast is all cast and delivered, and the iron work for the hull and materials is now in hand, and the articles, when finished, are placed in the public stores. All the necessary contracts are entered into by the agent, and the articles are daily arriving.

N. B. A large schooner with live oak, bound to New York, was unfortunately lost on Cape Hatteras, and every part of the cargo lost. On board of this schooner were many of the principal pieces of timber necessary for the frame.

*Mint of the United States.*

Statement of the progress made in building a frigate to carry 44 guns, at Boston, under the direction of Mr. George Claghorne, Naval Constructor, and Captain Samuel Nicholson, Superintendent.

The keel is completed and laid on the blocks; the pieces are scarphed and bolted to each other in the best manner. The stern frame is now completing, and will be soon ready to raise. The stem is also putting together, every part being worked to the moulds. About two thirds of the live oak timbers have been received, and are all worked agreeable to the moulds; great part of those timbers are bolted together in frames, and are ready to put into the ship; but some of the principal pieces for the frame have not yet arrived. All the gun deck and lower deck beams are procured and are ready for delivery, and the plank for those decks are received into the yard. The plank for outside and ceiling are also received and are now seasoning. The copper is all in the public stores. The masts, bowsprit, yards, and other spars, are all ready for working. The bits for the cables, combings for the hatchways, partners for the masts, are all ready. The caboose with a forge, hearth, armorer's tools, spare coppers, boilers, &c., are all complete; most of the iron work is in great forwardness; all the necessary contracts are entered into by the agent, and the articles contracted for are daily arriving.

Statement of the progress made in building a frigate to carry 44 guns, at Norfolk, under the direction of Mr. Josiah Fox, Naval Constructor, and Captain Richard Dale, Superintendent.

The keel is completed and laid on the blocks; the pieces are scarphed and bolted to each other in the best manner. The stern frame is complete and ready for raising; more than two-thirds of the live oak for the frame is arrived, which is worked to the various moulds; great part of the timbers are bolted together in frames, and are ready for raising. The gun deck and lower deck beams are all finished and are ready to put into the ship; the plank for the decks is not yet arrived. The outside plank, as likewise the ceiling, are preparing, and some parts have been delivered; all the copper necessary for securing the various parts of the ship together, and for sheathing the bottom, is in the public stores. The keelsons, and midship deadwoods, are complete. The masts, bowsprit, yards, and all the other spars, are cut, and several of them are received at the yard. The carlings, ledges, combings for the hatchways, and the partners for the masts, are now in hand. The iron work for the hull and materials is nearly ready. The caboose, with a forge, hearth, armorer's tools, spare coppers, boilers, &c., are complete. All the necessary contracts are entered into by the agent, and the articles contracted for are daily arriving.

Statement of the progress made in building a frigate to carry 36 guns, at Baltimore, under the direction of Mr. David Stoddert, Naval Constructor, and Captain Thomas Truxtun, Superintendent.

The keel is complete and laid on the blocks;

the pieces are scarphed and bolted to each other in the best manner. The stern frame is not quite complete. Near two thirds of the live oak timber for framing the ship is arrived; great part of which is worked to the various moulds, and some part bolted together in frames, and is ready to go into the ship. The beams for gun deck and lower deck are received, and are put to season. The plank for some of the decks is in the yard, and ready for laying: most of the plank for outside and ceiling is ready and in the yard. The copper for securing the various parts of the ship together, and for sheathing the bottom, is in the public stores. The masts, bowsprit, yards, and all the other spars, are cut, and ready to be delivered. The boats are building; and the bits for the cables, combings for the hatchways, carlings, ledges, and partners for the masts, are getting out. The principal part of the iron work is done for the hull, and materials, and all the necessary contracts are entered into by the agents, and the stores contracted for are daily arriving.

Statement of the progress made in building a frigate to carry 36 guns, at Portsmouth, New Hampshire, under the direction of Mr. James Hacket, Naval Constructor, and Captain James Seaver, Superintendent.

The keel is completed and laid on the blocks; the pieces are scarphed and bolted to each other in the best manner. The stern frame is nearly ready for raising; the principal framing of the body of the ship is not yet complete. About two-thirds of the live oak timber have been delivered into the yard, which is nearly all worked to the moulds; great part of the timbers are bolted together in frames, and are ready to go into their proper places. The beams for the gun deck and lower deck are ready, as well as the carlings and ledges for framing the decks; and the plank for those decks are also procured, and great part are in the yard. The outside plank and the wales are all cut, and will be ready in a few weeks, as is the ceiling; great part of the plank is already received into the yard, and is now seasoning. All the copper necessary for securing the various parts of the ship together, and for sheathing the bottom, is in the public stores. The masts, bowsprit, yards, and the other spars, are delivered by the contractors. The bits for the cables, combings for the hatchways, partners for the masts, are all received and trimmed. Most of the iron work is in great forwardness; and all the necessary contracts are entered into by the agent, and the articles contracted for are daily arriving.

## MINT OF THE UNITED STATES.

DEPARTMENT OF STATE,  
December 14, 1795.

SIR: By the direction of the President of the United States, I have the honor to enclose, to be laid before the House of Representatives, the reports of the late and present Director of the Mint,

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exhibiting the state of that establishment, and showing the necessity of some further Legislative provisions to render it more efficient and secure.

I am, most respectfully, sir, your obedient servant,

**TIMOTHY PICKERING.**

*The SPEAKER of the House of Reps.  
of the United States.*

Henry William de Saussure's report on the Mint.

MINT OFFICE, October 27, 1795.

DEAR SIR: The law establishing this office having placed it more immediately under your guidance, I deem it a duty to lay a state of its past operations and actual situation before you at the moment of my resigning its direction. The enclosed document, marked A, will show the quantity of copper which has been coined and sent into circulation from the Mint. The whole of this coinage was accomplished by my predecessor, Mr. Rittenhouse. The enclosed documents, marked B and C, will show the quantity of the precious metals which have been worked up and coined, partly under the direction of Mr. Rittenhouse, and partly under mine—the gold wholly under mine.

It may possibly appear to those who have not taken pains to inform themselves of the difficulties to be encountered in the formation of new establishments, that little has been done; but a short review of the embarrassments which occurred, will show that as much has been done as could reasonably be expected in the infancy of this establishment. In the first instance, it was exceedingly difficult to procure workmen, in any degree acquainted with the various kinds of work to be performed. Indeed, most of the workmen have been formed in the Mint, and have only recently attained that skill and facility in their several walks which practice alone can give, but which is essential to the despatch of business. Much difficulty occurred in obtaining the very tools and implements necessary for the operations of the Mint; and most of them have been prepared under the immediate direction of the officers, and particularly Mr. Voight, the Coiner.

Great delays were incurred in obtaining the heavy iron work, particularly the rollers; and these were not always fit for use, when obtained. Those which are now in use being almost worn out, I have been striving in vain to replace them with the fine Andover iron.

One unsuccessful attempt has been made for us at an air furnace; and it yet remains to be tried, if it can be accomplished without recurring to the tedious and expensive method of making them of wrought iron, converted into steel.

More than once, as I have been informed, the operations have been suspended for want of dies, which the industry of the engraver could not supply fast enough for the presses. A happier selection of steel, aided by more skill in hardening the dies, has remedied this evil, and the engraver is now enabled to supply the Mint with dies of every kind in advance. To these causes of delay must be added, that the greatest part of the bullion which

has been brought to the Mint for coinage has been below our standard, and required the tedious operation of refining; or the precious metals have been brought melted up together, and required the more tedious operation of separation—operations which I understand are never performed at any other Mint, and which the diminutive scale on which ours is formed but illy qualified it to perform. These are some of the difficulties which occurred. Most of them had been vanquished by the judgment of my able and very respectable predecessor, whose mechanical genius and powers of calculation seem to have been essential to the organization of the establishment. The remainder I have endeavored to subdue; and I am now free to say that the Mint, even on its present contracted scale, if regularly supplied with the precious metals, of the legal standard, will be adequate to the coinage of \$1,500,000 annually in silver, and as much in gold; and that a small increase of the labor and expense will produce an addition of as much of the copper coinage as will be requisite for the use of this country. I venture this assurance upon my view of its operations upon a late deposit of silver, vigorously urged for a few weeks. The gold coinage was carried on at the same time, to a small amount, and might have been to a much larger, if there had been any bullion in a state fit for coinage. All the gold, and almost all the silver, within a mere trifle, in a state actually fit for immediate coinage, has been coined and delivered.

It will be proper for me to state to you what I have before stated to the late Secretary of State and the present Secretary of the Treasury, that there is no copper in the Mint fit for coinage. There are, indeed, considerable quantities of clippings of the copper which are reducible into ingots, and would, when rolled, be fit for use; but the Mint is so illy prepared for these operations on that metal, whilst occupied in the coinage of the precious metals, that it would be advisable for the Government to apply these clippings, and some other masses of copper in possession of the Mint, to some other purposes, and to exchange therefor some of the sheet-copper it possesses, or to purchase sheet-copper for the coinage. The price of copper having risen considerably, from causes which it is said will be operative for some length of time, if not permanently, it has been suggested that it would be useful to diminish the weight of the cent, as the copper would thereby be brought nearer to its proportionate value to silver, and might prevent its being worked up by the coppersmiths. The law seems to have contemplated the possibility of such an arrangement being proper, by giving you the power to make the alteration.

It is important to inform you of what I have before mentioned to the Heads of Departments above-named, that the standard of silver coin, in use at the Mint, differs from the standard fixed by law. The law establishing the Mint, fixes that the silver coinage should contain 1,485 parts of fine silver to 179 parts alloy; or ten ounces, fourteen pennyweights, five grains, of fine silver, to one ounce, five pennyweights, nineteen grains, alloy.

Before any operations commenced under this

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law, it was supposed, by the best informed men, that this standard was too low—would debase the coin too much—and was inconvenient in other respects; and it was presumed that an alteration would be made, which was recommended by its propriety and correctness. The alteration contemplated went to the establishment of a standard which required that nine parts in ten should be fine silver, the other tenth alloy; or ten ounces, sixteen pennyweights fine, to one ounce, four pennyweights alloy, in the pound troy. Upon the presumption of such an alteration, I understand the coinage was commenced in October, 1794, and the matter was submitted in the winter to a committee of Congress, who reported on the propriety of the alteration. By some means, that part of the report on the Mint which related to the standard, after passing one branch of the Legislature, did not pass the other. Still, however, the coinage was continued on the principle it was commenced. It being represented to me, when, soon after my coming into office, I observed the fact, that some mistake alone had prevented the change by the Legislature, I did not feel myself qualified to alter the standard which I found in use in the Mint, under the weighty sanctions of Mr. Rittenhouse's authority, and the report of a committee of the Legislature. I am thus particular in stating this business, as it is of high importance that the law should be altered, or that the standard should be accommodated to the law.

Permit me, sir, to suggest the necessity of protecting the laws for the coinage. I understand that none of the laws of Congress have provided any penalties for the various offences which may be committed against the coinage. In most countries strict laws are enacted, prohibiting the interference of individuals in this attribute of sovereignty; and in some, the very possession of dies or presses, or other implements essential in the coinage, is made criminal. In this country, Mints are said to be boldly erected in Baltimore and elsewhere, professedly to imitate the coins of foreign countries, and to furnish a debased gold coin for the West India markets; and much of the gold bullion which would be brought to the National Mint is carried to these private establishments, which degrade our national character. Encouraged by this negligence of Government, men have carried their ideas further; and there is but too much reason to fear that a recent attempt on the dies and other implements was made with nefarious views.

Amongst the unpleasant circumstances which attend the contracted scale on which the Mint has been erected, there is one of very serious import. The owner of a small lot adjoining the Mint has a right of passage through the interior of the lots of the Mint. This exposes the works to improper intrusion, and prevents that complete control over the workmen which is essential to the well-ordering of the business. A small sum of money would have purchased that lot some time ago. I believe it may still be had reasonably.

I feel it a duty to warn the Government of the propriety of putting itself in a situation to replace

the Assayer, if that measure should become necessary. The time of his engagement with Mr. Pinckney has almost expired, and he is forming works, in connexion with other persons, for carrying on business on his private account. Probably he may not choose to remain in the public service at the expiration of that time. Possibly it might be inexpedient to allow the Assayer of the Mint to be connected in the works which bear some relation to the coinage, or to the preparation of the metals for coinage—at least some check should be provided.

Permit me to suggest that it might be useful to publish a short statement of the operations of the Mint, and of its actual prepared state to carry on the coinage of the precious metals to a considerable amount. It might satisfy the public mind, and might also lead to the production of considerable quantities of bullion, which are said to be in the hands of individuals in the United States, who are unadvised of the facility and certainty with which they may now have bullion coined.

I must treat your pardon for intruding so long on your time. It appeared to me important to lay this information before you.

I am now prepared to deliver up the direction of the Mint to my successor. It only remains for me to thank you, in all sincerity, for your confidence in the unsolicited bestowal of this office on me, and to assure you that I have endeavored to deserve it. Allow me to hope that you will be persuaded that I am, sir, with the truest and most affectionate attachment and respect, your obedient servant,

HENRY WM. DE SAUSSURE.

The President of the United States.

—  
The DIRECTOR OF THE MINT, in obedience to the President's commands, makes the following Report relative to the Mint of the United States, hoping that the short time of one month which he has had to make himself acquainted with the present state of it, will apologize for any inaccuracies that appear therein:

On entering on this service, the Director found that the united exertions of the several officers had been engaged to complete as many coins of the precious metals as circumstances would permit, by which the state of their accounts relative to deposits had been delayed. It became a prudent measure, on the part of the new Director, and one absolutely necessary to the future conducting the department with propriety, to insist on an immediate close of all accounts relative to the precious metals, from the first establishment of the Mint.

The many difficulties attending this process put a stop to any further coinage, excepting as to what was then in hand. The accounts of those metals are now nearly brought up, and in a few days will be finished.

Every previous step was preparing for a vigorous and systematic renewal of the coinage, when the sudden and unexpected death of the Assayer, (Mr. Albion Cox,) on Friday last, by an apoplectic fit, deprived the Mint of an intelligent officer, essentially necessary to the future progress in the coin-



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age of the precious metals. Until this officer is replaced, the business at the Mint must be confined to striking cents only.

The Director has endeavored to avail himself of the temporary cessation of full business to prepare a system of rules for conducting the Mint in future, in all its branches, which shall be reported to the President in a few days, and which will be hereafter carried into execution, if it should meet with the President's approbation. Future experience will improve it, by such additions and alterations as practice will discover to be necessary.

The issues of the Mint, from its first establishment to this day, as collected from the Register kept for that purpose, consist of—

Eagles	-	-	-	2,795
Half-eagles	-	-	-	8,707
Dollars	-	-	-	204,791
Half-dollars	-	-	-	323,144
Half-dimes	-	-	-	86,416
Cents	-	-	-	1,066,033
Half-cents	-	-	-	142,534
Total in dollars	-	-	-	453,541 80

There are not, to the knowledge of the Director, any protecting laws yet enacted, securing the coinage by proper penalties against those (other than persons concerned in the Mint) who may counterfeit, debase, clip, or otherwise lessen the value thereof, with intent to defraud.

The interference of individuals with so necessary a branch of the Executive Government as that of coining money, by setting up coining-presses for imitating foreign coins, should be prevented by law, if either the national honor or the success of the Mint are to be objects of public attention. The one is injured in foreigners being imposed upon by an imitation of foreign coins of a reduced weight, and perhaps wanting in standard purity; the other may be deprived of all the bullion thus wrought up at these irregular presses.

The stealing of the dies, hubs, milling-stamps, screws, presses, or other instruments used in the coinage, as well as the taking, receiving, adulterating, or secreting the metals kept in or belonging to the Mint, call for special provision from the Legislature of the United States. The Director is sorry to say that these observations are justified by facts that have already happened at the Mint. The laws of the several States are not particularly adapted to these objects, so as to guard against these evils—a Mint never having been taken into their contemplation.

This opportunity ought not to be lost, of urging the propriety of prohibitory laws against any persons concerned in the Mint, either us an officer or workman, being engaged directly or indirectly in buying or selling of bullion, gold, or silver, or a mixture of either with other metals, on his or their private account. The checks provided for security against imposition will be in vain, if the property of the precious metals assayed and coined at the Mint may be vested in the persons who have the charge thereof, in its passage through the Mint.

The same reasoning will equally show the impropriety of any officer or workman engaged in

the Mint being allowed, by himself or in company with others, to be concerned, directly or indirectly, in the works of a similar nature on their private account, or in any such works wherein metals are melted, refined, rolled, or otherwise prepared, so as to be fit for coining.

To remedy some of these evils, it would be a measure highly advantageous to the United States, and very beneficial to depositors, if some proper person was authorized to purchase, on public account, all small quantities of silver and gold brought to the Mint, at the best market price, to be coined for the public Treasury.

It has been the opinion of former officers of the Mint that the legal standard for silver should be reconsidered; and the Director, on coming into office, found that, for some special reasons, the standard of coins heretofore completed varied in a small degree from that established by law. Whatever force those reasons may have with the Legislature, the Director did not think himself justifiable in permitting so important a measure to be continued without the Legislative sanction. He has therefore issued orders that, in future, the precise terms of the act of Congress in this respect should be observed; but as the coinage is at present in a state of suspense, it may be a proper time to review the alloy directed by law, as the alteration, if found necessary, could now be adopted without injury to any one.

The act of Congress directs that the alloy of gold shall be of silver and copper, not exceeding half silver. The practice at the Mint has been to form the alloy of copper, with the smallest portion of silver, so as barely to comply with the words of the law. The silver contained in the alloy is an entire loss to everybody, without answering the least valuable purpose. It is said not to mix so intimately and freely with gold as copper does, neither will it equally add to the hardness of the coin; at the same time it is a heavy increase of the annual expenses of the Mint. This regulation of part silver in the alloy of gold, it is said, may be repealed with great propriety.

These appear to the Director to be the principal points relative to the Mint, demanding the President's immediate attention. As to the practice in detail, whatever has been found by experience to need checks or alterations, and has come to the Director's knowledge, and which he could remedy without troubling the President, he has endeavored to incorporate into the system of rules herebefore referred to.

All which are respectfully submitted.

ELIAS BOUDINOT, *Director.*

MINT OF THE UNITED STATES,

December 3, 1795.

A.—A statement of the species and value of copper coin delivered at sundry times by the Chief Coiner of the Mint, to September 30, 1794, as appears by the books of the Treasurer of the Mint.

Cents	-	-	-	908,012
Half-cents	-	-	-	116,934
Value in dollars	-	-	-	9,664 79

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B.—A statement of the species and value of silver coins delivered by the Chief Coiner of the Mint, from October 15, 1794, to October 24, 1795, inclusive, as appears by the books of the Treasurer of the Mint.

From October 15, 1794, to June 30, 1795	- - - -	\$68,169
From July 1, 1795, to October 24, 1795	- - - -	136,622
Total	- - - -	204,791
Half-dollars	- - - -	323,144
Half-dimes	- - - -	20,856
Do.	- - - -	31,660
Total	- - - -	52,516
Value in dollars	- - - -	468,988 80

C.—A statement of the species and value of gold coins delivered by the Chief Coiner of the Mint, from July 31 to October 24, 1795, inclusive, as appears by the books of the Treasurer of the Mint.

Eagles	- - - -	1,884
Half-eagles	- - - -	8,707
Value in dollars	- - - -	62,375

## SEAT OF GOVERNMENT.

*To the Honorable Congress of the United States of America:*

The Memorial of the Commissioners appointed by the President of the United States, by virtue of an act, entitled, "An act for establishing the temporary and permanent Seat of the Government of the United States," respectfully sheweth:

That the President of the United States, by virtue of the act above-mentioned, appointed three Commissioners, for the purposes declared in the said act, and in an act to amend the same, passed at Philadelphia in the year 1791, who, under his direction did cause to be surveyed, and by proper metes and bounds defined and limited, a district of territory ten miles square, on both sides of Potomac river, including the towns of Alexandria, in Virginia, and Georgetown, in Maryland, for the permanent Seat of the Government of the United States: that the proprietors of all the lands within the following bounds—that is to say, beginning on the east side of Rock creek, at a stone standing in the middle of the road leading from Georgetown to Bladensburg; thence along the middle of the said road to a stone standing on the east side of Reedy branch of Goose creek; thence southeasterly, making an angle of sixty-one degrees and twenty minutes, with the meridian, to a stone standing in the road leading from Bladensburg to the Eastern branch ferry; thence south to a stone eight poles north of the east and west line drawn from the mouth of Goose creek to the East-

ern branch; thence with the waters of the Eastern branch, Potomac river, and Rock creek, to the beginning, have conveyed the same to trustees for a Federal City, to be laid out with such streets, squares, parcels, and lots, as the President of the United States should approve; the streets and squares to be the property of the United States solely, and the lots to be equally divided between the granters and the United States. That the State of Virginia has paid one hundred and twenty thousand dollars, which had been previously offered by an act of the Legislature on condition that Congress would establish the permanent Seat of Government on the banks of the Potomac, to be applied, under the direction of the President of the United States, towards erecting the necessary buildings for the Federal Government; and that the State of Maryland hath paid seventy-two thousand dollars for the same purpose. That the Commissioners, in order to secure proper materials for the public buildings, directed by the act above mentioned, at reasonable rates, and to facilitate the carriage thereof, proceeded to purchase quarries of freestone; to build wharves and bridges; and to open such roads and canals as were deemed necessary for these purposes; which having accomplished, they commenced building of the Capitol and President's house, and have made considerable progress therein. The Commissioners considering that an increase of houses would induce settlers in the city, and thereby contribute much to the accommodation of Congress and the advancement of trade and manufactures, did, in the month of December, 1793, enter into a contract with two gentlemen for the sale of six thousand lots, at the low rate of eighty dollars per lot, payable in seven annual instalments, the purchasers obliging themselves to erect one hundred and forty convenient brick dwelling houses, each covering one thousand two hundred square feet, before the year 1800; and, engaging further, that all sales made by them previous to the year 1796 should be on condition that the purchasers should erect one such house for every three lots purchased. The Commissioners have, from time to time, sold lots in small numbers or singly, to various persons, to the amount of ninety-five thousand six hundred and fifty-two dollars, and there still remain unsold about four thousand seven hundred lots; which, valued at the average price of those sold as last above mentioned, are worth nearly one million and a half of dollars. With these resources in their hands, your memorialists entertain no doubt of completing such buildings as will be absolutely necessary for the reception of Congress, before the time appointed for their removal to the permanent Seat of Government; but, as the punctual compliance with the contracts of individuals cannot be relied on with that certainty which is necessary to the carrying on the public works to advantage, and as the bringing into market so large a portion of the city property as would raise money sufficient for that purpose, would greatly depreciate its value, your memorialists conceive that the loan of a sum of money, secured on the city property, would be highly ad-

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vantageous, as it would enable them to proceed with more celerity in completing the public buildings than a dependance on the collection of debts and sale of property will admit.

The rapid progress of the buildings would in itself be an encouragement to private improvements, and have an immediate tendency to enhance the price of lots; but could the lots be generally retained until the Seat of Government shall be removed, they will rise so far beyond their present value, that not only all sums now borrowed on that foundation may be repaid, but much property reserved for the disposal of the United States; yet, as the laws of Maryland, which are still in force in the Federal District, do not permit the receiving of more than an interest of six per centum per annum, which on this occasion it will probably be necessary to exceed, and as money lenders, in foreign countries at least, may be unacquainted with the value of the security offered, your memorialists beg leave to submit to the consideration of your honorable body the propriety of giving your sanction to a loan; on the principle above stated, so far as to guaranty the payment of such sums as may be deemed adequate to the purpose of erecting the Federal buildings; or to such an amount as Congress may be satisfied is clearly within the value of the property pledged, if it shall be judged expedient either to advance money, or at this time to subject the revenues of the United States to the eventual payment of moneys in future for the above mentioned purposes; and to authorize the payment of such interest as the President of the United States may judge reasonable. Should Congress adopt the proposed measure, your memorialists have no hesitation in expressing their confidence that, not only all the buildings required by the acts aforesaid will be erected in a convenient and elegant style, and in due time, and (what is perhaps unparalleled among nations) at private expense, but that private buildings will progress in such a degree as to afford sufficient accommodation for Congress, and all their attendants, and render their situation perfectly agreeable. Your memorialists, in contemplating a measure which to them appears mutually advantageous to the city and to the United States, have considered what objections, if any, could be raised against it. They discover none: they have heard none suggested; and they cannot believe that Congress will refuse their aid to render valuable, property granted by individuals for public purposes, on the faith of Government pledged by repeated acts of the Legislature; more especially when, by giving that aid, no expense will be incurred; but, on the contrary, much property will be saved to the United States. Your memorialists therefore pray your honorable body to pass an act authorizing the President of the United States to borrow such sums as, on consideration of the premises, shall appear reasonable, to be secured on the lots ceded for the Federal City, (now called the City of Washington,) as above stated, at such rate of interest as he may judge expedient, and payable at such time or times as

he may judge proper, after the year 1800; and to guaranty to the money-lenders, that in case the property so pledged shall prove inadequate to the purpose of repayment, the United States will make good the deficiency.

GUST. SCOTT,  
WILLIAM THORNTON,  
ALEXANDER WHITE.

The committee to whom was referred the Message from the President of the United States, of the 8th of January instant, enclosing a memorial of the Commissioners appointed by virtue of the "Act establishing the temporary and permanent Seat of Government of the United States," report—

That, having carefully perused the memorial and documents furnished by the Commissioners, and having been attended by one of them in person, as the result of their inquiries, they beg leave to state, for the consideration of the House—

That considerable progress has been made towards fulfilling the object of the aforementioned act. The difficulties incidental to an undertaking of this nature are chiefly surmounted; though much remains to be done, yet almost every branch of the business has been commenced, and many of the materials necessary for erecting the buildings are provided. The House for the accommodation of the President is in considerable forwardness, and the foundation of the Capitol is laid, and the walls begun; wharves and bridges have also been built, and the necessary roads opened.

The funds for defraying the expense of procuring the lands and erecting the buildings necessary for the accommodation of Congress, of the President, and for the public offices, are the lands ceded to the Commissioners, as stated in the memorial, together with one hundred and twenty thousand dollars granted by the State of Virginia, and seventy-two thousand dollars by the State of Maryland. It is the opinion of the committee that these funds, if properly managed, are fully adequate to the completing of all the buildings required for the accommodation of the Government, in season, without any aid from the Treasury of the United States.

The Commissioners, soon after the laying out of the Federal City, sold six thousand of the public lots, at eighty dollars each; the purchasers stipulating to build one hundred and forty convenient large brick dwelling houses in the Federal City, before the year 1800; and the said purchasers further stipulating that all sales made by them previous to 1796 should be on condition that for every three lots so sold, one such dwelling house should be erected.

The committee are informed, that under this condition, upwards of six thousand lots have been sold.

The Commissioners have, at different periods, sold to sundry persons upwards of two hundred other lots, together with a small number of water lots, for the sum of ninety-six thousand six hun-

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dred and fifty-two dollars. The payment of the six thousand lots was to be in seven equal annual instalments.

The whole amount of donations and sale of lots is seven hundred and sixty-eight thousand six hundred and fifty-two dollars.

The Commissioners state to the committee that of this sum three hundred and seventy-four thousand two hundred and fifty dollars are already expended.

From this statement, which is apprehended to be sufficiently accurate for general purposes, it is easy to form an estimate of the resources remaining in the hands of the Commissioners. They are the money due on contracts for lots sold, being three hundred and ninety-four thousand four hundred and two dollars, payable in the present and four succeeding years, in sums nearly equal; that is about eighty thousand dollars: and the lots unsold, being four thousand six hundred and ninety-four, exclusive of the water lots, which occupy three thousand five hundred feet on the water, and extend back from sixty to an hundred feet.

It is difficult to say, with any degree of precision, what this property will realize, as much will depend on the time and manner of the sale.

It is stated by the Commissioners, that estimating these lots according to the average price of the lots sold, exclusive of the great sale of six thousand in 1793, they are worth one million three hundred and ninety-three thousand seven hundred and ninety dollars; and that, from the progress made in the public buildings, and from the improvements made and contemplated by private persons, the value of this property must rapidly increase.

The Commissioners also state, that, in their opinion, it would be unsafe to calculate on strict punctuality in the payment of the instalments as they become due from their debtors, though they assure the committee that there will eventually be no loss.

The committee have endeavored to state, as correctly as possible, the resources now in the hands of the Commissioners, that these may be compared with the objects yet to be accomplished. The principal of these are the completing of the President's house, the Capitol, at least as far as may be necessary for the accommodation of the two Houses of Congress and their officers, a building for the Judiciary, and another for the several Departments of State, of the Treasury, in all its branches, the Department of War, and the General Post Office, and such improvements in the streets as may be essentially requisite for the public convenience.

The committee have availed themselves of the best means of information which the shortness of the time they have had the subject under consideration would allow, to form an estimate of the sums necessary for these several purposes; and though certainty cannot be expected, and much must after all be left to conjecture, they apprehend they may with safety be estimated at seven

hundred thousand dollars, for completing the whole.

The committee conceive that it will be necessary to expend, until the year 1800, in completing the several objects enumerated, at least the annual sum of one hundred and forty thousand dollars.

The committee have already observed, that firm reliance cannot be placed on the punctuality of the debtors of the public. If forty thousand dollars be taken as the sum that shall be annually received from this source, there will be an annual deficiency of the sum of one hundred thousand dollars.

If this deficiency be not supplied in some way, it will result that the public buildings will not be in readiness for the reception of Congress at the time proposed.

This deficiency must be supplied by the sale of the lots belonging to the public, if no better mode can be devised.

The committee conceive that the real interest, as well as the good faith of the Government, forbid the relinquishment of the objects contemplated by the act establishing the permanent Seat of Government. It is stated by the Commissioners that this property, if sold under the most unfavorable circumstances, would still be adequate to the purpose; but, as this property may justly be considered as that of the public, it would, in the opinion of the committee, be a wanton sacrifice of the public interest, and justified only by the most urgent necessity, which the committee conceive does not exist, to raise the money wanted in this way. It is, in the opinion of the committee, the duty of Congress, founded on the truest principles of economy, to cherish these funds so as to make them productive of the greatest public utility.

But two other modes of accomplishing the objects contemplated, have presented themselves to the view of the committee, namely, that of annual advances from the Federal Treasury of the requisite sums, and that by raising the same by a loan.

If the state of the public finances would admit of it, the former would, in every point of view, be the most economical, and the most certain. The public would, in that case, derive all the advantages resulting from the rapid increase of the value of property in this infant city, and might reimburse the sums so advanced, by sales at such times, and in such manner, as would be most advantageous. But, conceiving that the existing objects of expenditure will equal, if not exceed, the revenues already provided, and that it would not be advisable to impose new taxes for this object, the committee are induced to believe, that the only mode which can with propriety be adopted at this time, for supplying the deficiency stated, will be that of a loan, secured on the city property, and negotiated under the direction of the President; and that it would conduce to the real interest of the public that the United States should guaranty the payment of the sums so bor-

*Seat of Government.*

rowed, in case the property pledged should prove insufficient.

The committee also conceive that it would be proper, in order that Congress may be enabled to judge of the application of the moneys so borrowed, that it be made the duty of the Commissioners, semi-annually, to render to the Secretary of the Treasury a particular account of their receipts and expenditures, and also of the progress and state of the business entrusted to their care, and the state of the funds in their hands; and that the same be laid before Congress, by the said Secretary, at every session.

The committee, therefore, recommend the following resolutions:

*Resolved*, That the President of the United States be authorized to borrow such sums as, in his judgment, may be necessary (not exceeding the sum of five hundred thousand dollars in the whole, and not exceeding two hundred thousand in any one year) for completing the buildings requisite for the accommodation of the Government of the United States, at the City of Wash-

ington; the said loan to be secured on the public property in the said city, and at such rate of interest as he may judge expedient, and payable at such time or times as he may judge proper, after the year 1800; and that the United States guaranty to the money-lenders, that in case the property so pledged shall prove inadequate, the United States will make good the deficiency.

*Resolved*, That it shall be the duty of the Commissioners appointed by virtue of the act, entitled, "An act for establishing the temporary and permanent Seat of the Government of the United States," every six months to render to the Secretary of the Treasury, a particular account of the receipts and expenditures of all moneys entrusted to them; and also the progress and state of the business, and the state of the funds in their hands; and generally an account of their administration; and that the said Secretary lay the same before Congress at the next session after the same shall be received, and that a bill or bills be brought in accordingly.



*The French Loans.*

[Communicated to the House of Representatives, January 19, 1796.]

*A Statement showing the final liquidation of the French Loans, and their full reimbursement at the Treasury, upon the principles of the Loan opened for the Foreign Debt, under the act making further provision for the support of Public Credit, and for the redemption of the Public Debt.*

Liquidation of French Loans, &c.	Livres. S. D.	Livres. S. D.	Livres. S. D.	Dolls. Cts.
Balance due to France on December 31, 1794, agreeably to the printed statement for that year, payable at different future periods, ascertained by contracts dated July 16, 1782, and February 25, 1783 - - - - -	- - - - -	- - - - -	12,188,040 12 2 a \$18 15	2,212,129 37
Debt due to the Farmers General of France, upon a contract made June 3, 1777, with Messrs. Franklin & Dean, as agents of the U. States' amount of the Loan - - - - -	- - - - -	1,000,000 0 0		
Deduct remittances made by the late Government - - - - -	- - - - -	153,229 5 7		
			846,770 14 5 a 18 15	153,688 89
Interest arising in the year 1795, on the instalments becoming payable by contracts after December 31, 1794, viz:				
One year's interest due September 3, 1795, on six millions, being the residue of the Loan of eighteen millions of livres, at five per cent. per annum - - - - -	300,000 0 0			
One year's interest due November 4, 1795, on two millions livres, being the residue of the Loan of ten millions, at four per cent. per annum - - - - -	80,000 0 0			
One year's interest due December 31, 1795, on the entire loan of six millions, at five per cent. per annum - - - - -	300,000 0 0			
Interest from September 3 to December 31, 1795, on four millions five hundred thousand remaining of the Loan of eighteen millions, after paying one million five hundred thousand, the instalment of September 3, 1795 - - - - -	73,750 0 0			
Interest from November 4 to December 31, 1795, on one million livres remaining of the Loan of ten millions, after paying one million, the instalment of November 4, 1795 - - - - -	6,333 6 7	760,083 6 7		
For amount of interest relinquished, which had been charged in the account settled to December 31, 1794, upon moneys advanced by the United States on account of instalments becoming due - - - - -	- - - - -	104,462 2 5		
For amount of interest on 846,770 14 5, being the balance due to the Farmers General from September 3, 1783, to December 31, 1793—ten years, three months, and twenty-eight days - - - - -	- - - - -	437,262 19 10		
			1,301,808 8 10 a 18 15	236,278 23
			14,336,619 15 5 a \$18 15	2,602,096 49

*The French Loans.*

*The United States have reimbursed the French Government, the full amount of the preceding, viz :*

Liquidation of French Loans, &c.	Livres. S. D.	Livres. S. D.	Livres. S. D.	Dolls. Cts.
By payments made at the Treasury for the discharge of the instalments of September 3 and November 4, 1795, four hundred and fifty three thousand seven hundred and fifty dollars, at eighteen dollars and fifteen cents -	-	-	2,500,000 00 0 a \$18 15	453,750 00
By amount of supplies furnished during the late war to the Marine of France, under the agency of John Holker, Esq., Consul General, as settled at the Treasury, viz :				
Principal sum -	-	448,471 14 8		
Interest thereon, from September 3, 1783, to December 31, 1793 -	-	231,585 16 4	680,057 11 0 a 18 15	123,430 45
Subscribed to the Loan opened for the Foreign Debt, and for which certificates of Domestic Debt were issued in favor of J. Swan, Esq., agent duly authorized by the Committee of Public Safety of the National Convention.				
Certificates bearing interest at 5½ per cent. per annum, from January 1, 1796, to the amount of one million eight hundred and forty-eight thousand nine hundred dollars -	-	10,186,776 17 2		
Certificates bearing interest at 4½ per cent. per annum, from same period, one hundred and seventy-six thousand dollars -	-	969,696 19 5	* 11,156,473 16 7 a 18 15	2,024,900 00
Payment to the said agent by Treasury warrant, No. 5132, dated July 22, 1795, for sixteen dollars and four cents, being the balance due the Republic of France, on loan of money and other supplies obtained by the United States of the Government of France, during the late war -	-	-	88 7 10 a 18 15	16 04
			14,336,619 15 5 a 18 15	2,602,096 49

\* This subscription is in discharge of the residuary instalments, which had not become due on the 31st of December, 1795, viz :

Three of 1,500,000 each, of the Loan of eighteen millions, at 5 per cent. per annum - 4,500,000 00 00

Six of 1,000,000 each, of the Loan of six millions, at 5 per cent. per annum - 6,000,000 00 00

10,500,000 00 00

Deduct so much paid in advance, on account of the instalment becoming due on the 3d of September, 1796 - 313,223 02 10

10,186,776 17 02

One of 1,000,000, of the Loan of one million, at 4 per cent. per annum - 1,000,000 00 00

Deduct so much paid in advance on account of the instalment becoming due the 4th of November, 1796 - 30,303 00 7

969,696 19 5

11,156,473 16 07

## Statement of Exports—Estimates for 1796.

## STATEMENT OF EXPORTS.

TREASURY DEPARTMENT, Jan. 25, 1796.

SIR: I have the honor to transmit, herewith, a letter from the Commissioner of the Revenue, dated the 23d instant, with the statement of the exports of the United States therein mentioned.

I have the honor to be, with perfect respect, sir, your obedient servant,

OLIVER WOLCOTT, Jr.,  
Secretary of the Treasury.

The Hon. the SPEAKER  
of the House of Representatives.

TREASURY DEPARTMENT,  
Revenue Office, January 23, 1796.

SIR: The returns of exports being received from the several custom-houses, with a few exceptions of very small amount, you will find in this enclosure a copy of a statement thereof, exhibiting the value which has been shipped annually from every port of the United States between the 1st day of October, 1790, to the 30th day of September, 1795.

This document has been so formed as to show likewise the annual exportations from each State, and from the United States, in order to afford a more complete view of this part of our foreign commerce. None of the great and numerous interchanges of domestic and foreign commodities, which occur by water among the States, appear in this paper, nor could that part of the produce of the fisheries have any place in it, which is sold in foreign countries, without a previous importation into our ports.

In revising the custom-house returns for the years preceding the last, a few corrections and additions have been made, which occasion some inconsiderable variations from the former statements; these are, however, upon the whole, in favor of the United States.

I am, sir, with great respect, your most obedient servant,

TENCH COXE,  
Commissioner of the Revenue.

The SECRETARY OF THE TREASURY.

Summary of the value of the exports from the several States for five years.

STATE.	October 1, 1790, to September 30, 1791.	October 1, 1791, to September 30, 1792.	October 1, 1792, to September 30, 1793.	October 1, 1793, to September 30, 1794.	October 1, 1794, to September 30, 1795.
New Hampshire	\$142,858 62	\$181,412 90	\$198,304 38	\$153,860 30	\$229,426 99
Massachusetts	2,519,650 52	2,888,104 48	3,756,346 99	5,232,441 20	7,117,907 28
Rhode Island	470,131 27	698,109 93	616,432 03	954,599 32	1,222,916 85
Connecticut	710,352 52	879,752 62	770,354 50	812,764 64	819,465 45
New York	2,505,465 01	2,535,790 25	2,992,370 00	5,442,183 32	10,304,580 78
New Jersey	26,987 73	23,405 71	54,178 75	58,154 28	130,314 34
Pennsylvania	3,436,092 85	3,320,662 00	6,958,836 00	6,643,092 00	11,538,260 00
Delaware	119,878 93	133,972 27	93,559 45	207,985 33	168,041 21
Maryland	2,239,690 96	2,623,808 33	3,665,055 50	5,686,190 50	5,811,379 55
Virginia	3,131,865 27	3,552,824 58	2,987,097 94	3,321,635 71	3,490,040 50
North Carolina	524,548 34	527,899 55	365,414 03	321,587 31	492,161 23
South Carolina	2,693,267 97	2,428,249 79	3,191,367 15	3,867,908 32	5,998,492 49
Georgia	491,250 86	459,105 55	520,955 42	263,831 90	695,985 77
Total	19,012,040 58	20,753,087 95	26,109,572 14	33,026,233 91	47,989,472 44

TENCH COXE,  
Commissioner of the Revenue.

TREASURY DEPARTMENT,  
Revenue Office, January 28, 1796.

## ESTIMATES FOR 1796.

[Communicated to the House of Representatives, December 14, 1795.]

TREASURY DEPARTMENT, Dec. 14, 1795.

SIR: I have the honor to present, herewith, a report and estimates of the appropriations which appear to be necessary for the service of the year 1796, and for other purposes; also, statements in relation to the expenditure of certain sums, heretofore appropriated.

I have the honor to be, with perfect respect, sir, your most obedient servant,

OLIVER WOLCOTT, Jr.,  
Secretary of the Treasury.

The Hon. the SPEAKER  
of the House of Representatives.

The Secretary of the Treasury respectfully reports to the House of Representatives:

That, for the service of the year 1796, and for making good deficiencies in former grants, the following appropriations, as detailed in the estimates herewith transmitted, appear to be necessary:

For the Civil List, or the support of Government, including the incidental and contingent expenses of the several departments and offices, the sum of	\$485,971 12
For the payments of annuities and grants	3,157 73
For the support of the Mint Establishment	52,464 00

*Estimates for 1796.*

For the support of light-houses, beacons, buoys, and public piers,	24,000 00
For satisfying certain miscellaneous claims and expenses	33,672 09
For the Department of War, comprising the following general objects of expenditure:	
The support of the Army, including the expenses in the clothing, hospital, ordnance, Quartermaster, and Indian departments, the defensive protection of the frontiers, contingencies, and the improvement and completion of sundry fortifications	\$1,480,247
The Naval Department	73,934
The payment of military pensions	85,098

Total estimate for War Department, \$1,639,279 00

Amounting, together, to - \$2,238,543 94

In addition to the said estimates, the following sums are stated, on the presumption that laws authorizing the expenditure will be passed, during the present session of Congress:

For defraying the expenses of the intercourse of United States with foreign nations	\$40,000 00
For defraying the contingent expenses of the Government of the United States	20,000 00
For the compensation of clerks in the several Loan offices, and for books and stationery	14,000 00

Amounting to - - - \$74,000 00

The funds out of which appropriations may be made for the purposes before mentioned, are, 1st, The sum of six hundred thousand dollars of the proceeds of duties on imports and tonnage, which will accrue in the year 1796, which sum is annually reserved for the support of Government, by the act, entitled "An act making provision for the Debt of the United States;" and 2d, The surplus of revenue and income which will accrue to the end of the year 1796, after satisfying the objects for which appropriations have been heretofore made.

Subjoined to this report, is a statement, marked A, which exhibits a prospective view of the revenue and expenditure of the United States, for the ensuing year, by which it satisfactorily appears that the proceeds of the duties on imports and tonnage, and on domestic distilled spirits, and on stills, will be adequate to the discharge of the appropriations already made, including the reimbursement of the domestic stock, bearing a present interest of six per cent.; and also to the payment of the sums contained in the estimates, now presented, for the current service.

But, as a great proportion of the revenue arising from imports, is subject to long credits, the customary anticipations, by means of loans, will continue to be necessary.

In addition to the sums charged upon the revenue, arising from imports and tonnage, and domestic distilled spirits, and stills, there are other debts of the United States which will fall due in the year 1796, and for which provision is necessary.

The following are of this description:

A loan had of the Bank of New York, pursuant to an act passed on the 20th of March, 1794, for - - - \$200,000 00  
An instalment of \$800,000, had of the Bank of the United States, pursuant to the same act - - - 200,000 00

Amounting, together, to - \$400,000 00

The interest of the loans before mentioned is secured by the existing revenues, but there is no authority to reimburse the principal, except from the proceeds of the duties upon carriages for the conveyance of persons, licences for selling wines and foreign distilled spirits, snuff mills, refined sugar, and property sold at auction. The present state of these revenues does not justify a reliance that they will be sufficiently productive, in the year 1796, to admit of the reimbursement of the debts with which they are charged. The alternative which offers is, therefore, either an appropriation of other revenues, or a payment from the proceeds of new loans.

If it were certain that the exigencies of the United States would not require appropriations beyond the sums at present contemplated, and that the revenue would equal the estimates, a sum sufficient to cover any deficiency of the appropriated revenues might be safely charged upon the duties arising from imports and tonnage; but, in the actual state of uncertainty which necessarily exists, it is deemed expedient to keep in view the auxiliary resource provided by the tenth section of the act, entitled "An act making provision for the support of public credit, and for the redemption of the public debt."

The following sums will, moreover, be required, in the year 1796, for the payment of which the laws contemplate no provision, except the proceeds of certain loans, which are authorized by the act last recited:

- 1st. An instalment of one million of guilders, which will fall due in Amsterdam, on the 1st of June ensuing, to pay which, with the charges thereon, according to the course of exchange which has lately obtained, there will be necessary, the sum of - - - \$414,100 00
- 2d. An instalment of the loan of two millions, had of the Bank of the United States, for stock of said Bank, held by the United States, which instalment will fall due on the last day of the present year - 200,000 00
- 3d. An instalment of the same loan, which will fall due on the last day of December, 1796 - - - 200,000 00

Amounting to - - - \$814,100 00

*Estimates for 1796.*

There are other loans detailed in the annexed statement, which will also fall due to the Bank of the United States in the course of the ensuing year; but, as they are merely anticipations of the revenue, for refunding which there exist legal provisions, they are introduced to show the course of receipt and expenditure, and the extent to which future anticipations will be requisite.

The view, now presented, of the expenditure and revenue for the year 1796, authorizes the following conclusions:

1st. That, after making a liberal allowance for unforeseen demands which may require appropriations, and for deficiencies, the revenue will be adequate to the annual reimbursement of the six per cent. stock, bearing a present interest; to the payment of the interest on the foreign and domestic debt; and to the discharge of the sums estimated for the current service.

2d. That the anticipations of the revenue which may exist at the close of the present year, must be continued for the year ensuing.

And, 3d. That the instalment of the foreign debt, which will fall due on the 1st of June next, and certain instalments of domestic loans, before mentioned, must be re-loaned, or satisfied out of the proceeds of new revenues.

On this statement the Secretary takes the liberty to observe, that the act of the last session, entitled "An act making further provision for the support of public credit, and for the redemption of the public debt," contains the following provisions:

1st. A proposal for re-loaning the whole of the foreign debt, and converting the same into a funded domestic stock, transferable at the Treasury, and the respective loan offices; the principal stock to be redeemable at the pleasure of the United States, and the interest to be payable quarterly, with an additional interest of one-half per centum per annum to the rates of interest secured by former contracts.

2d. A power to the Commissioners of the Sinking Fund to borrow, with the approbation of the President of the United States, any sums requisite for the payment of any instalments, or parts of principal as the same shall become due. It is, however, provided that the interest of any loan so made, shall not exceed six per centum per annum, and that the principal shall be liable to reimbursement, at the pleasure of the United States.

Agreeably to the proposal first mentioned, the accounts subsisting between the United States and France have been finally adjusted to the satisfaction of an authorized agent of the French Republic; the instalments which fell due in the present year, have been paid at the Treasury, and the remainder of the debt has been subscribed to the proposed loan, and converted into funded domestic stock, bearing interest at five and one-half and four and one-half per centum per annum.

By this operation the debt, as due under former contracts, to the Republic of France, may be considered as discharged.

Measures have been, moreover, taken for ascertaining whether the residue of the foreign debt,

due in Amsterdam and Antwerp, could be re-loaned with the consent of the creditors. The experiment cannot yet be considered as fully made; but the prospect of success is not encouraging. The objections against a mutation of the contracts in the manner proposed; which have been stated, are, generally, 1st. That the proposed new stock will be redeemable at the pleasure of the United States, by which condition the Government will possess the power of reducing the rate of interest, or refunding the capital at periods when the reimbursement may be difficult, or disadvantageous to the creditors. 2d. That the proposed addition of one-half per centum per annum to the rates of interest, does not afford an equivalent for the expenses of agency, loss upon the exchange, and the risk of remittances from America. And, 3d. That the facilities which attend the negotiation of bonds payable to bearer, over funds which can only be transferred at the Treasury or loan offices in the United States, render the obligations of foreign debt, in their present form, particularly eligible for foreign creditors.

It is not yet ascertained that these objections will be conclusive in the minds of the creditors against the proposed re-loan, and circumstances are not unlikely to happen which may, in some degree, abate their force. Nevertheless, as the object of converting the foreign debt into domestic stock is of real importance to the United States; as unprecedented difficulties attend remittances at present; as similar difficulties will always exist, in a greater or less degree, in time of war; and as, in proportion to their operation, they must endanger the public credit; the Secretary respectfully submits it to the House of Representatives to consider and determine whether some modification of the existing proposal be not expedient.

Considering the actual state of Holland, and the restrictions upon our intercourse with that country, it was deemed for the interest of the United States to propose a postponement of the instalment which fell due in the present year. It has, however, been conclusively ascertained that no additional loans can be obtained in Holland; of course, that the United States must be provided to make the reimbursements stipulated in their contracts.

The measures adopted by this Department to effect a reimbursement, were seasonable, and such as promised to be effectual; but, owing solely to the war, and the stagnation of credit occasioned by the Revolution, the instalment which fell due on the first of June, had not been paid at the date of the last advices in August.

The causes of the delay were, however, well understood by the creditors; and as they neither originated with, nor could be controlled by, the United States, and as the interest has been paid, the public credit has as yet suffered no blemish.

It being rendered certain that funds to meet the instalments of the foreign debt, now annually falling due, must be remitted from the United States, measures have been taken for ascertaining whe-

*Estimates for 1796.*

ther the powers vested by law in the Commissioners of the Sinking Fund, contain an adequate resource. As before mentioned, these powers limit the rate of interest upon any loan to six per centum per annum, and, moreover, provide that the capitals borrowed shall be redeemable at the option of the Government.

Though the rate of six per centum per annum may be justly considered as a liberal compensation for the use of money, in ordinary times, yet, at the present moment, when the demand for American funds are greatly limited by the operation of the war in Europe, and when a variety of new objects are presented for the profitable employment of capital in this country, it is found that the redeemable quality of the stock which the Commissioners of the Sinking Fund are authorized to constitute, will so far derogate from its value as to defeat the intention of the law.

The Secretary is confident that the House of Representatives will appreciate fully all the arguments in favor of an augmentation of the revenue, for the purpose of reimbursing the foreign debt; and he, therefore, omits to make any comments on the statement of facts now presented. But, it is his duty to observe, that, if it shall be determined to confine the reimbursement of the public debt to the scale now established by law, it will be necessary to enlarge the powers granted to the Commissioners of the Sinking Fund, in such

manner as that there may exist a certainty of obtaining the necessary funds, with that strict punctuality which it is necessary to observe in whatever relates to the delicate concerns of public credit.

The annexed statement, marked B, exhibits a summary view of the receipts and expenditures at the Treasury, from the 1st of January to the 30th of September, 1795; and those marked C and D show, in detail, the expenditure of two sums granted by an act of Congress, passed on the 2d of January, 1795, for discharging such demands on the United States, not otherwise provided for, as should be ascertained and admitted at the Treasury, and of a nature, according to the usages thereof, to require payment in specie.

The prolonged time for receiving on loan the unfunded Domestic Debt of the United States will expire on the last day of the present year; this debt, including what remains to be liquidated, computed according to the principles which have governed former estimates, amounted, on the 30th of September, 1795, to \$1,382,837 37, for which some provision will be necessary.

All which is humbly submitted.

OLIVER WOLCOTT, Jr.,  
*Secretary of the Treasury.*

TREASURY DEPARTMENT,  
December 14, 1795.

*A.—An Estimate of the Expenditures and Revenue of the United States, for the year 1796.*

ESTIMATED EXPENDITURES FOR THE YEAR 1796, viz:

*For the Interest on the Foreign Debt.*

One year's interest on 29,500,000 guilders, being the debt due in Amsterdam and Antwerp, supposing the instalment for 1795 to have been paid, calculated according to the different contracts, bearing interest at four, four and one-half, and five per centum per annum, is, guilders - \$1,385,250 00  
Commissions to the bankers for making the payments, at one per centum - 13,852 10

Guilders - - - - - \$1,399,102 10

Which sum of guilders, 1,399,102 10, calculated at 40 cents per guilder, is equal to \$559,641 00

But, supposing the exchange to be at 41 cents per guilder, which is likely to be the case, there will be necessary, to effect remittances, the further sum of 13,991 02

\$573,632 02

*For the interest on the Domestic Debt, including the annuity necessary for redeeming the six per cent. stock, bearing a present interest, viz:*

Interest and redeeming annuity, for one year, on the six per cent. stock, subscribed on the 30th September, 1795, calculated on the principle of the act of March 3, 1795, supposing no part of the balances due to certain States, to be subject to reimbursement - 2,274,624 13

But, supposing the balances due to certain States to be transferred, agreeably to the act authorizing transfers thereof, an additional annuity, to redeem the same, will be necessary, amounting to 46,901 12

2,321,525 25

For the interest on the three per cent. stock, subscribed on the 30th of September, 1795, calculated for one year - - - - - 587,097 28



*Estimates for 1796.*

For interest on the stock bearing interest at $5\frac{1}{2}$ per cent., created by a subscription of a part of the debt lately due to France, calculated for one year	\$101,689 50
Interest on the stock bearing interest at $4\frac{1}{2}$ per centum per annum, created by a subscription of the residue of the debt lately due to France, calculated for one year	7,920 00
Estimated amount of one year's interest on the whole unfunded debt, receivable on loan till the close of the present year, calculated upon the principles which have governed former appropriations	71,029 44

*Estimated expenditures for the year 1796, agreeably to the documents herewith transmitted, viz :*

For the Civil List	\$485,971 12
For the payment of annuities and grants	3,157 73
For the Mint Establishment	52,464 00
For the Military Department	1,480,247 00
For the Naval Department	73,934 00
For the payment of military pensions	85,098 00
For the support of light-houses	24,000 00
For the payment of miscellaneous claims	33,672 09
	<u>2,238,543 94</u>

But, in addition to the said estimates, the following sums are stated, on the presumption that laws authorizing the expenditure will be passed, viz :

For defraying the expenses of the intercourse of the United States with foreign nations	40,000 00
For the contingent expenses of Government	20,000 00
For the compensation of clerks in the several Loan Offices, and for books and stationery	14,000 00
	<u>74,000 00</u>

*Interest on Domestic Loans, for the payment of which provision has been made by law, viz :*

On \$1,400,000 of the loan of \$2,000,000 had of the Bank of the United States, for stock of said Bank, held by the United States, at six per cent., payable out of the dividends in favor of the United States	84,000 00
On \$3,300,000 borrowed of the Bank of the United States, pursuant to several laws authorizing anticipations of the revenue on imports and tonnage, and on distilled spirits and stills, to the close of 1795, and remaining uncollected, calculated according to existing contracts, at five per cent. and six per cent. per annum	175,000 00
On \$1,000,000 borrowed on the credit of, and to be refunded from, the product of the duties on carriages, licenses for selling spirits and wines, snuff mills, refined sugar, and sales at auction, the interest of which is secured by the revenues arising from imports and tonnage, and on distilled spirits and stills, of which \$200,000 was borrowed at five per cent., and the remainder at six per cent.	58,000 00
In addition to the loans above mentioned, a further sum of \$500,000 will be necessary at the close of the present year, the interest of which is calculated at six per cent.	30,000 00
	<u>347,000 00</u>

*For the reimbursement of Domestic Loans, payable out of the revenue on imports and tonnage, &c., viz :*

Instalment of a loan of \$400,000, had of the Bank of the United States, pursuant to an act passed on the 2d of May, 1792, entitled "An act for raising a further sum of money for the protection of the frontiers, and for other purposes therein mentioned"	300,000 00
Instalment of a loan had of the Bank of the United States, pursuant to the act passed on the 18th day of December, 1794, entitled "An act authorizing a loan of two millions of dollars"	2,000,000 00
Instalment of loans had of the Bank of the United States, pursuant to the act entitled "An act making further provision for the Military and Naval Establishments, and for the support of Government," passed on the 3d of March, 1795	1,000,000 00
	<u>3,300,000 00</u>

*Estimates for 1796.*

*For the reimbursement of Domestic Loans, the payment of which is charged by law upon the proceeds of the revenue from duties upon carriages, licenses for selling di-tilled spirits and wines, upon snuff mills and refined sugar, and upon sales at auction, viz :*

A loan had of the Bank of New York, pursuant to an act passed on the 20th of March, 1794, making provision for the expenses attending the intercourse of the United States with foreign nations -  
Instalment of a loan of \$800,000 had of the Bank of the United States, for the same purpose

\$200,000 00	
200,000 00	
<u>\$400,000 00</u>	

*For the reimbursement of Loans, foreign and domestic, payable out of the proceeds of loans authorized by law to be made on the credit of the United States, viz :*

Instalment of one million of guilders which will become due in Amsterdam on the 1st of June, 1796, pursuant to a contract dated June 11, 1782, calculated at 40 cents

400,000 00

Commissions thereon, at one per cent.

4,000 00

Expenses of remitting the above sum, in case the exchange shall be at the rate of 41 cents per guilder

10,100 00

Instalment of two millions had of the Bank of the United States, for stock of said Bank, which will fall due on the last day of December, 1795

200,000 00

Instalment of the said loan, which will fall due on the last day of December, 1796

200,000 00

814,100 00

10,836,537 43

Balance, reserved in this estimate, to cover any deficiencies in the product of the revenue, and to satisfy any unforeseen demands which may require appropriations

420,883 94

\$11,257,421 37

## RECEIPTS.

*From duties on Imports and Tonnage*

The actual receipts from the duties on imports and tonnage, during the three first quarters of the year 1795, as credited by the Treasurer, amounted to

4,234,046 26

The product of the fourth quarter of 1795, may be estimated at

1,445,372 32

\$5,679,418 58

Which sums may be safely estimated as the probable product of the revenue from imports and tonnage, in the year 1796.

*From Internal Revenues*

The duties on domestic distilled spirits have been estimated in former years, at

400,000 00

The duties on snuff mills, refined sugar, sales at auction, licenses to retail spirits and wines, and on carriages, have also been calculated at

380,000 00

780,000 00

Though these revenues have never produced in the Treasury the sums at which they have been estimated, yet, as the deficiency has been produced by causes which have prevented a regular and punctual collection, and which may be obviated by more efficient measures, the former estimate is continued.

From the postage of letters, founded on an estimate of the Postmaster General

35,000 00

From fees on letters patent, estimated at

660 00

From dividends on stock of the Bank of the United States

160,000 00

From the proceeds of the Sinking Fund, calculated on the stock actually purchased, and redeemed on the 30th of September, 1795, appropriated to the redemption of the six per cent. stock

88,242 79

*Estimates for 1796.*

The principal of the Foreign Debt and of Domestic Loans, which will fall due before the year 1797, is estimated at \$4,514,100, which sum may be continued on loan, in the following manner, viz:

From the proceeds of a loan to be negotiated in the year 1796, pursuant to the first section of the act, entitled "An act making further provision for the support of the Public Credit, and for the redemption of the Public Debt," to be applied to the purpose therein mentioned	-	-	\$1,000,000 00
From the proceeds of a loan to be negotiated in the year 1796, pursuant to the tenth section of the last recited act, to be applied as follows, viz:			
To the payment of the instalment of the Foreign Debt, which will fall due in 1796		\$414,100 00	
To the payment of two instalments of the loan of two millions, had of the Bank of the United States, for stock		400,000 00	
To the payment of the instalments due on the loans obtained for defraying the expenses of foreign intercourse, in case the appropriated revenues should not prove sufficiently productive during the year 1796, not exceeding, however, the sum of		400,000 00	
			1,214,100 00
To be applied to the discharge of such sums as shall be appropriated for the current service, the said loan to be reimbursed out of the proceeds of any revenues of the United States, not otherwise appropriated, which shall accrue during the year 1796, not exceeding			2,300,000 00
			<u>\$11,257,421 37</u>

OLIVER WOLCOTT, Jr., *Secretary of the Treasury.*

TREASURY DEPARTMENT, December 14, 1795.

**B.—Account of Receipts and Expenditures of the United States, commencing on the 1st day of January; and ending on the 30th September, 1795.**

FOR AMOUNT OF EXPENDITURES DURING SAID PERIOD, UNDER THE FOLLOWING HEADS, viz:

Civil Department	-	-	-	-	-	\$286,958 29
Military Department	-	-	-	-	-	2,059,636 34
Naval Department	-	-	-	-	-	302,940 00
Fortifications of ports and harbors	-	-	-	-	-	65,168 46
Military pensions	-	-	-	-	-	67,637 22
Annuities and grants	-	-	-	-	-	2,530 20
<i>Temporary Domestic Loans, viz:</i>						
January 1. For the two last instalments due to the Bank of the United States, on a loan of one million of dollars, obtained of the President, Directors, & Co. of said Bank, on the 27th of March, 1794, per act of 20th of March, 1794					\$400,000 00	
April 1. In full of the loan of one million of dollars obtained of the said Bank the 27th of August, 1794, per act of 9th June, 1794					1,000,000 00	
						1,400,000 00
Interest on Domestic Loans	-	-	-	-	-	221,099 99
Diplomatic Department	-	-	-	-	-	15,005 00
Extra expenses of do.	-	-	-	-	-	897,680 12
Appropriation for paying the third instalment of the loan of two millions of dollars	-	-	-	-	-	200,000 00
Debts contracted by Timothy Pickering	-	-	-	-	-	61 59
Interest on the Domestic Debt	-	-	-	-	-	1,782,084 38
Support and erection of light-houses	-	-	-	-	-	13,969 10
Contingent expenses of Government	-	-	-	-	-	9,983 98
French Debt	-	-	-	-	-	272,266 04
Dutch Debt	-	-	-	-	-	675,373 33
Debt due to foreign officers	-	-	-	-	-	5,866 32
Mint Establishment	-	-	-	-	-	13,000 00

*Estimates for 1796.*

Miscellaneous expenses -		\$32,874 80
Balance in Treasurer's hands on the 26th September, 1795	\$447,271 91	
From which deduct warrants remaining unpaid on that day, which are charged as expenditures in this statement	77,445 62	
The balance subject to warrants, on the 1st October, 1795, therefore, was		369,626 29
		<u>\$8,693,961 45</u>

## RECEIPTS.

By balance in the hands of the Treasurer on the 31st December, 1794	\$1,151,924 17	
Deduct warrants drawn on him previous to the 1st of January, 1795, which remained unpaid that day	3,776 62	
Balance subject to warrants, January 1, 1795 -		\$1,148,147 55

*Moneys received into the Treasury, as follows :*

For duties on merchandise and tonnage :		
In the quarter ending the 31st March -	1,224,449 28	
Do. do. 30th June -	1,623,930 84	
Do. do. 30th September -	1,385,666 14	
		4,234,046 26

*Duties on Spirits distilled in the United States.*

In the quarter ending the 31st March -	59,237 52	
Do. do. 30th June -	91,164 04	
Do. do. 30th September -	59,614 62	
		210,016 18

*Postage of Letters.*

In the quarter ending the 31st March -	7,000 00	
Do. do. 30th June -	5,000 00	
Do. do. 30th September -	10,400 00	
		22,400 00

*Dividends on capital stock in the Bank of the United States.*

Due 31st December, 1794	80,000 00	
Due 30th June, 1795 -	80,000 00	
		160,000 00

*Fees on Letters Patent.*

In the quarter ending the 31st March -	150 00	
Do. do. 30th June -	270 00	
Do. do. 30th September -	90 00	
		510 00

*For Domestic Loans.*

In the quarter ending the 31st March, 1795, per act of March 20, 1794, and February 21, 1795	800,000 00	
In the quarter ending 30th June, viz :		
On account of the loan of two millions, per act of 18th December, 1794	1,000,000 00	
On the loan of five hundred thousand, per act of the 3d March, 1795 -	500,000 00	
	1,500,000 00	
In the quarter ending 30th September, 1795, on the loan of five hundred thousand, per act of 3d of March, 1795	500,000 00	
		2,800,000 00

*For Bills of Exchange.*

Amount of a bill of exchange, drawn by Samuel Meredith on W. and J. Willink, and J. Van Staphorst and Hubbard, of Amsterdam, the 2d June, 1794, for 60,449 8-20 guilders, for the purpose of satisfying a grant to Major General Lafayette, per act of 27th March, 1794 -	24,424 00	
Amount of a bill drawn as above, the 28th June, 1794, in favor of Thomas Pinckney, Esq., for 180,000 guilders, for the purpose of purchasing certain articles for the frigates	72,000 00	
		96,424 00

*Estimates for 1796.**Repayments, viz :*

In the quarter ending the 31st March—

From Colonel Francis Nichols, balance of moneys advanced him as agent for superintending the supply and accommodation of the Pennsylvania division of the militia army, on their return from Lancaster - - - - - \$1,224 97

From S. A. Otis, balance of moneys advanced him for paying the compensations due to the Senators of the United States - - - - - 1,545 20

\$2,770 17

In the quarter ending 30th June—

From Frederick A. Muhlenberg, Speaker of the House of Representatives, being the balance remaining in his hands, of moneys advanced him for payment of compensations due to the members of said House - - - - - 5,983 73

From Ebenezer Stevens, balance of moneys advanced him for the purpose of erecting fortifications at New York - - - - - 111 63

6,095 36

In the quarter ending 30th September—

From Eli Williams, on account of a balance remaining in his hands, of moneys advanced him to procure provisions for the militia lately called into service - - - - - 10,000 00

\$18,865 53

*For balances due the United States under the late Government.*

In the quarter ending the 31st March—

From Daniel Heister, jr., balance due him on settlement of his account for green hides - - - - - 97 33

In the quarter ending the 30th June—

From Furman and Hunt, balance of their account for transportation of troops, &c., in the year 1776 - - - - - \$5 94

From James Lovell, receiver of Continental taxes for the State of Massachusetts, in part of a balance due by him - - - - - 233 75

996 23

In the quarter ending the 30th of September—

From Robert Townsend Hoe, the proceeds of four hogsheads of damaged tobacco, received by John Hopkins - - - - - 37 44

From Edward Carrington, late Deputy Quartermaster General, amount of sundry payments made to Thomas Packer, Attorney of the United States, by persons in discharge of their bonds, given for public property sold by him - - - - - 1,846 85

From Edward Carrington, being a balance received by him as Deputy Quartermaster General, from the estate of George Webb, late receiver of taxes for Virginia - - - - - 1,330 62

3,214 91

3,551 91

\$8,693,961 45

JOSEPH NOURSE, *Register.*

· TREASURY DEPARTMENT, REGISTER'S OFFICE, November 4, 1795.

## Public Debt.

## PUBLIC DEBT.

[Communicated to the House of Representatives, January 4, and February 3, 1796.]

TREASURY DEPARTMENT, Dec. 31, 1795.

SIR: Agreeably to what was proposed by the committee of the House of Representatives at the conference with them on the 26th instant, I have now the honor to present a statement of the debts of the United States, with a view of the sums which will be annually requisite for discharging them.

1st. Of the debts due in Amsterdam and Antwerp, for loans obtained under the late and present Governments.

The amount of these loans, exclusive of certain premiums with which one of them is charged, amounted, on the 1st of January, 1795, to thirty millions and five hundred thousand guilders, equal, at the exchange of forty cents per guilder, to \$12,200,000.

The annexed statement, marked A, shows, in detail, the several loans which constitute this description of debt, the rates of interest payable thereon, and the sums which, according to existing contracts, are reimbursable in each year. It is to be observed, however, that the sums stated in dollars are calculated at par, or forty cents per guilder; the sums which may be really necessary to effect reimbursements cannot be ascertained, and will vary, from time to time, according to the course of exchange.

2d. Of the Domestic Funded Debt, bearing a present interest of six per centum per annum.

This debt, on the 31st of December, 1794, amounted to \$29,046,730 62, but by subscriptions under the supplementary funding act, passed on the 28th of January, 1795, it had increased, on the 30th of September, 1795, to \$29,310,856 86.

In this last capital is included the sum of \$1,167,164 58, which has been purchased or redeemed; the interest of which is vested in the Commissioners of the Sinking Fund; also the stock created by funding the balances due to certain States, in consequence of the report of the late Board of Commissioners in their favor; which balances originally amounted to \$2,345,056.

By the act of the last session, providing for the redemption of the Public Debt, the Commissioners of the Sinking Fund are instructed to commence the reimbursement of the six per cent. stock, bearing a present interest on the first of January ensuing, and to continue the same annually, until the said stock is fully redeemed. The sum placed to the credit of the Sinking Fund, and the balances standing to the credit of certain States, in consequence of the report of the Commissioners in their favor, are, however, excepted by the law from reimbursement.

The annexed statement, marked B, shows the annuity necessary to complete the payment of the stock subscribed on the 30th of September; other subscriptions, though not to any great amount, have been, and will continue to be made until the close of the present year.

The interest and redeeming annuity, exclusive of the sum funded in favor of certain States, will require - - - - \$2,274,624 13

But to reimburse the said balances to States, there would be necessary the further sum of - - 46,901 12

Amounting to - - - 2,321,525 25

It is proper, however, to observe that, by a law passed on the 2d of January, 1795, the balances due to States are, on certain conditions, not now controllable by the United States, subject to be transferred at any time before the 2d of January, 1797, and that said balances, when so transferred, are subject to reimbursement.

As the redeeming annuity is therefore unsusceptible of calculation at present, and may, with the interest, amount to \$2,321,525 25, this last sum is assumed, in the general statement which is annexed, as the annual charge upon the revenue.

The annuity will be necessary for the object before stated until the end of the year 1817. During the year 1818, it will decline to \$1,862,501 63, and will then be liberated by the extinguishment of the debt.

3d. Of the Funded Domestic Debt, bearing interest of six per centum per annum, after the year 1800.

This debt, on the 31st of December, 1794, amounted to \$14,523,365 45; but on the 30th of September, 1795, it had increased by additional subscriptions to \$14,561,934 41.

In the capital last mentioned is included the sum of \$929,220 14, which has been placed to the credit of the Sinking Fund, and a sum of \$1,172,528, arising from balances due to certain States, in consequence of the report of the late Board of Commissioners in their favor.

The interest on this debt will commence on the 1st of January, 1801; the first reimbursement of principal is to be made on the 1st of January, 1802; the credit to the Sinking Fund, and the balances due to certain States, which may remain untransferred, are not subject to reimbursement.

The interest and redeeming annuity, exclusive of the balances originally funded in favor of certain States, will require - \$1,122,919 78

And to redeem the balances originally credited to certain States, the further annuity of - - 23,450 56

Amounting to - - - 1,146,370 34

It being very uncertain whether any part of the balances due to States will remain untransferred till the year 1802, and there being important reasons in favor of a reimbursement of the whole debt on uniform principles, the sum last stated is assumed as what will probably be the annual charge upon the revenue.

This annuity will continue from the year 1801



*Public Debt.*

to the year 1823; during the year 1824, it will fall to \$924,020 76, and will then be liberated.

4th. Of the Domestic Funded Debt, bearing interest at three per centum per annum.

This debt, on the last day of December, 1794, was \$19,484,840 68; on the 30th of September, 1795, it had increased by new loans to \$19,569,909 63.

The sum purchased or redeemed, and passed to the credit of the Sinking Fund, was \$607,097 27.

Notwithstanding this debt is redeemable at the pleasure of the United States, and though funds are, by the act of March 3d, 1795, eventually destined for that purpose, yet, as the appropriation is conditional and revokable by Congress, nothing more is stated as a charge upon the revenue than the annual interest, being \$587,097 28.

5th. Of the Domestic Funded Debt, bearing interest at five and one-half per centum per annum.

This debt has lately been created by a subscription at the Treasury of that part of the loans obtained from France during the late war, which remained unpaid, and which bore interest at five per centum per annum, and amounts to \$1,848,900.

This species of debt is liable to be increased by subscriptions of the debt due in Holland, bearing five per cent. interest; but any increase will operate as an equivalent reduction of the foreign debt; the interest is payable quarter-yearly, from and after the 1st of January, 1796; the annual sum requisite for this object is \$101,689 50.

6th. Of the Domestic Funded Debt, bearing interest at four-and-a-half per centum per annum.

This, like the debt last mentioned, has been produced by a subscription of a part of the sum due to France, and arises from the loans which bore an interest of four per centum; the amount is \$176,000.

To discharge the interest, there will be required annually the sum of \$7,920.

7th. Of the Unfunded Debt, contracted during the late war.

This debt is composed of Loan Office and final settlement certificates, indents of interest, certificates of the Register of the Treasury, credits on the public books, and unliquidated claims. The amounts cannot be precisely ascertained, but, on the principles of former estimates, which cannot be materially erroneous, the principal is stated at - - - -

And the arrearages of interest, prior to 1791, at - - - -

\$984,811 09

398,026 28

Amounting to - - - 1,382,837 37

Agreeably to the contracts expressed in the certificates of Unfunded Debt, the principals bear an interest of six per centum per annum; the arrearages of interest, prior to the year 1791, on being subscribed to the loan opened for the Domestic Debt, become three per cent. stock.

As yet, however, the acts of Congress have con-

tained no provision for the payment of interest on this debt, except on that part which has been registered at the Treasury, and then only for a payment on account of interest, equivalent to what would be payable in consequence of a subscription to the loan.

On the principles which have governed former appropriations, there would be necessary, until and including the year 1800, the sum of \$51,333 22, and after the year 1800, the sum of \$71,029 44.

As, however, the amount of the Unfunded Debt is uncertain, and as no principles of the reimbursement thereof have been established, the sum last stated is assumed as the annual charge proper to be estimated for this object.

8th. Of the Domestic Loans, obtained under the authority of the present Government.

The annexed statement, marked C, shows, in detail, the several loans which had been obtained on the 30th of September, 1795, amounting to \$5,700,000. A further sum of \$500,000 will be obtained at the close of the present year, which will increase this description of debt to \$6,200,000.

In this sum is included \$1,400,000, being the amount of instalments which remain unpaid of two millions had of the Bank of the United States, for an equal sum of the capital stock of the said bank; according to contract, this loan bears an interest of six per centum per annum, and is reimbursable in instalments of \$200,000 at the close of the years, from 1795 to 1801, inclusive.

There is also included in the aggregate amount before stated, the sum of \$1,000,000, borrowed of the Bank of the United States and the Bank of New York, for expenses incident to the intercourse of the United States with foreign nations; \$400,000 of this loan will fall due in the year 1796, and the remainder at the close of the years 1797, 1798, and 1799, in equal instalments of \$200,000 each.

The other loans, with that to be made at the close of the present year, will require provision in the course of 1796.

It being evident that these loans, especially those which will fall due in the course of the ensuing year, must be continued by new contracts, the annual interest only is introduced into the general statement which is annexed; this interest, for reasons which will be developed in a subsequent part of this communication, is calculated at six per centum, or \$372,000.

The several sums before stated have been brought into an aggregate view in the annexed table, marked D, the last column of which exhibits the sums which are estimated as being necessary to be provided in addition to the ordinary expenses of Government.

If a revenue adequate to the payment of the sums included in this estimate were to be established, the following reductions of the Public Debt might be effected:

At the close of the year 1809, the whole Foreign Debt, amounting to \$12,200,000, would be discharged, and an annuity of \$573,632 02, now required for the payment of interest, would revert to the public.

*Public Debt.*

At the close of the year 1818, the Funded Domestic Debt, bearing a present interest of six per cent., would be discharged. This debt amounts to \$29,310,856 86, the annuity then liberated would be \$2,321,525 25.

At the close of the year 1824, the funded six per cent. stock, bearing a future interest, amounting to \$14,561,934 41, would also be reimbursed, when a further annuity of \$1,146,370 34 would be liberated.

The act of the last session provides fully for the fulfilment of the two last mentioned objects, by an absolute appropriation of revenue.

After the reimbursement before mentioned, there would still remain the following sums of the existing debt:

The stock bearing 3 per cent. interest, being	\$19,569,909 63
The stock bearing 5½ per cent. interest	1,848,900 00
The stock bearing 4½ per cent. interest	176,000 00
The capital of the present Unfunded Debt, with the arrearages of interest prior to 1791, estimated	1,382,837 37
And the capital existing in loans of the Bank of the United States and the Bank of New York	6,200,000 00
Amounting, in the whole, to	29,177,647 00

But if a revenue were to be established equal to what will be requisite to satisfy the public engagements upon the scale of expenditure which will be necessary in the year 1801, the whole of the Public Debt might be extinguished, by payment or purchase, at or before the close of the year 1824, as also a very considerable additional debt, if any such should arise, out of future contingencies.

This view of the public engagements will, it is presumed, demonstrate to the committee that, in the arrangements which have been hitherto made, an attention has not been wanting to secure a right of reimbursing the debt, fully, if not more than equal, to what the United States can exercise, and that the unforeseen events which have lately happened in Europe render it necessary to combine some efficacious plan for obtaining loans, with any augmentation of the revenue which it may now be judged expedient to establish.

After a full consideration of different expedients, it has appeared to me most eligible to propose a commutation of the whole debt due to the Bank of the United States into a funded domestic stock, bearing interest at six per centum per annum, transferable at the Treasury and Loan Offices, respectively, and irredeemable for such a period as will invite purchases at par.

Considering the great capitals which will soon be demandable, or which are in train of reimbursement in consequence of the act of the last session, it is evident that, if the proposed new stock were to be declared irredeemable for a period of twenty or twenty-five years, still the purchase or redemption of the remaining debt would be suffi-

cient for the employment of any revenues which can readily be acquired. It will also appear, from the table marked D, that such an arrangement would leave it in the power of the United States to reimburse the proposed new stock at a favorable period, by the application of revenue which will then be liberated, in consequence of the final reimbursement of the six per cent. stock, bearing a present interest.

The utility of the proposed measure can, I presume, receive but little illustration beyond that afforded by a naked exhibition of the public engagements.

It is, indeed, very probable that the final payment of the Public Debt, instead of being postponed by any existing stipulations which forbid reimbursements, will, in fact, be rendered additionally burdensome, if it be not somewhat retarded by those conditions which require repayments at fixed periods.

The difficulties which are now experienced in respect to the Foreign Debt effectually demonstrate the impolicy of unnecessarily contracting engagements which cannot be satisfied directly from the proceeds of the revenue. At no time will those who negotiate loans for the public be able to calculate the value of money or the probability of an increase or reduction of the rate of interest, with greater precision than those who lend. At all times must the borrower be exposed to certain expenses, risks, and embarrassments, for which no equivalent can be obtained.

Among the reasons which recommend a commutation of the temporary debt due to the Bank of the United States, the following deserve notice:

1st. That this debt was contracted for the very beneficial consideration of an equal sum of the capital stock of that institution, or, it consists of sums advanced for the public service in anticipation of the revenue. In these respects, the debts due to the bank may be fairly considered as first in merit and importance.

2d. That the proposed commutation will enable the bank to grant such further loans as the public exigencies may require, without exposing the United States to certain expenses which are always incident to loans had of individuals.

3d. That, through the agency of the bank, sales of stock can be made to the best possible advantage, and the benefit of any premium which can be obtained be secured to the United States.

This last consideration is of much importance; for, though the proposed stock might not, in the present moment of commercial enterprise, command a premium, yet there can be but little doubt that it would bear a price considerably above par at no distant period. While, therefore, any present exigencies would be supplied on the most favorable terms, a certainty would remain that the real value of the stock would accrue to the public. I have the honor to be, &c.,

OLIVER WOLCOTT, Jr.,  
Secretary of the Treasury.

To the Hon. WILLIAM SMITH, Esq.

[The tables, being merely details, are omitted.]

*Public Debt.*

[Presented to the House of Representatives, February 3, 1796.]

TREASURY DEPARTMENT, *Jan. 26, 1796.*

SIR: The object of this communication is to represent to the Committee of Ways and Means that certain additional provisions appear to be advisable, in order to a due execution of the act, passed during the last session of Congress, entitled "An act making further provision for the support of Public Credit; and for the redemption of the Public Debt."

The eleventh section of the recited act directs, that the Commissioners of the Sinking Fund shall cause to be paid, yearly, such sums as, according to the right for that purpose reserved, may rightfully be paid for and towards the reimbursement or redemption of the debt or stock, bearing or to bear an interest of six per centum per annum.

In respect to the stock bearing a present interest, it was directed that the reimbursement should commence on the first day of January, 1796. Upon the stock which will bear interest after the year 1800, the reimbursement is to continue on the first day of January, 1802.

The sum which may rightfully be paid in one year, is eight per centum per annum upon the original capital, debt, or stock.

As the injunctions of the law upon the Commissioners of the Sinking Fund are unconditional, and as permanent funds have been vested and appropriated, it is conceived that a successive reimbursement annually of the debts before mentioned, has become an irrevocable stipulation with the creditors. The stock bearing a present interest has, therefore, by the act of the last session, been converted from an annuity of six per centum per annum, for an indefinite period, into an annuity of eight per centum per annum, for a period of somewhat less than twenty-four years, commencing with the year 1795.

The stock upon which interest was to commence in 1801, is a like annuity from that period.

But a stipulation in the fourth section of the act, entitled "An act making provision for the debt of the United States," requires a quarter yearly payment of interest, and this stipulation remains in force; a distribution of the annuity of eight per centum per annum into four quarter yearly dividends, is therefore necessary to satisfy the contract with the creditors.

If the dividends on the last days of March, June, and September, in each year, were to be confined to a simple payment of interest upon the unredeemed capital, the contract would be strictly satisfied; the fourth quarterly dividend, or that to be made on the last day of December annually, might, in this case, be calculated at such a rate as would complete the sum of eight per centum for each entire year; this appears to have been the design of the law in contemplating a distinction between the payments on account of principal and those on account of interest.

The effect of such a distribution of the annuity of eight per centum is exhibited in the annexed table, which shows the dividends of interest for the first three quarters of a year, in a decreasing

ratio, proportioned to the reduction of capital by reimbursement; while the dividends to be made at the end of the year, for principal and interest, are represented as increasing by the amount of liberated interest; the dividends for the entire year being uniformly eight per centum upon the original capital.

Upon this statement, it may be observed, that it has been the established practice at the Treasury and Loan Offices to suspend all transfers for fourteen days preceding the expiration of each quarter; that time being found by experience to be indispensably necessary for the purposes of balancing the books, and calculating the dividends upon the stock held by individual creditors: a view of the annexed table will, however, prove that the labor of stating the dividends must be immensely increased, if a distinction between the payments on account of interest and those on account of principal is to be preserved. But the trouble and expense which would be created in the public offices would not be the only or greatest inconvenience. Such a system of reimbursement would, after a few years, render it necessary to accumulate in the Treasury, and suspend from circulation very considerable sums; the effects of such an accumulation might be inconvenient to commerce, and could not be materially advantageous to the public. As the rates of the dividends would vary from year to year, the true value of the stock could only be ascertained by intricate calculations, to which many of the creditors would be incompetent. Moreover, the rates of the dividends for interest for several of the last years, would, upon small sums, be too inconsiderable to induce the creditors to a cheerful compliance with certain forms which have been established with reference to the public security, and the responsibility of the public officers. This last objection is very important; as every degree of loss and vexation to the creditors would not fail to produce a corresponding injury to the public credit.

Notwithstanding it is believed that the powers granted by the seventeenth section of the act of the last session might be justifiably construed in such a manner as would obviate some, if not all the inconveniences which have been stated, yet, in a matter of importance like the present, the decision of the Legislature is desirable. It is, therefore, proposed that the rates of the quarterly dividends, until the final reimbursement of the six per cent. stock, bearing interest at present, and after the year 1800, be now declared and established by law.

Two propositions are submitted for consideration: 1st. That, in respect to the stock bearing a present interest, it be declared, that there shall be dividends made on the last days of March, June, and September, from the present year to the year 1818, inclusive, at the rate of one and one-half per centum upon the original capital; that there be dividends made on the 1st days of December, from the present year to the year 1817 inclusive, at the rate of three and one-half per centum upon the original capital, and that a dividend be made, on the last day of December, in

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the year 1818, of one dollar eighty-six cents and nine mills per centum, upon the original capital, in full of said stock.

Or, 2d. That, in respect to said stock, bearing a present interest, the following dividends be established, namely: from the present year to the year 1806, inclusive, a dividend of one and one-half per centum on each of the last days of March, June, and September, upon the original capital; and upon each of the last days of December, during the said period, a dividend of three and one-half per centum upon the original capital; from the year 1807 to the year 1818, inclusive, a dividend of one per centum on each of the last days of March, June, and September, upon the original capital; from the year 1807 to the year 1817, inclusive, on each of the last days of December, a dividend of five per cent., and upon the last day of December, in the year 1818, a dividend of three dollars thirty-six cents and nine mills per centum upon the original capital, in full of said stock.

If either of these propositions shall be adopted, in respect to the stock bearing a present interest, it will be proper to establish the same rule for reimbursing the stock upon which interest will commence after the year 1800.

Either of the plans proposed will admit of an easy execution in the public offices, and either of them may be adopted consistently with the public engagements. The first proposition would be most favorable to an equal and regular circulation of the public revenue, and would serve to impress upon the stock the most uniform value. It is liable, however, in a greater degree than the second, to what may be deemed an objection common to both; namely, that of requiring an expenditure of money before the time actually stipulated for payment by the existing contract. The considerations of public utility, which have been stated, will however, it is presumed, more than counterbalance the objection.

It is further proposed, as an amendment to the act of the last session, that provision be made for reimbursing the balances, bearing and to bear interest at six per centum, due to certain States, which were funded in consequence of an act passed May 21, 1794. These balances, at present, constitute a part of the domestic funded debt, and unless they shall be reimbursed in course with the residue of said debt, it is apprehended that a degree of complexity will be introduced into the public accounts unfavorable to a regular and satisfactory administration of the business of the Treasury.

In deciding on the manner of executing the law, it has been judged inexpedient to renew the certificates in consequence of the annual reimbursements. It was indeed doubted, whether the operation would be practicable; at any rate, the expense to the public, and the trouble which would be produced to the creditors, were deemed insuperable objections. Accordingly the creditors have been notified, that their certificates will not be recalled, and that transfers will be continued upon the original capital stock. The value of

the stock will, therefore, be hereafter a matter of calculation, depending on the term for which the annuity of eight per centum per annum is to continue.

To guard purchasers against deception, an intimation of the arrangement which has been adopted is expressed in the certificates which have been issued since the commencement of the present year.

It is, however, essential to the preservation of order in the public accounts, and to the security of negotiations of this description of stock, that all the certificates which may, at any time, be in a course of transfer, should possess a uniform character and value. That this uniformity will in fact be preserved, cannot be rendered sufficiently certain, unless the whole debt is subject to a regular reimbursement. It is now ascertained, that a considerable portion of the balances due to States will not be transferred within the time limited by the act of January 2, 1795. Unless, therefore, a provision is made for reimbursing these balances in their present form, one of two consequences must follow: the United States must hereafter refuse to permit transfers to be made, however pressing the emergencies of the creditor States may be; or, two new denominations of funded stock must be admitted into circulation. It is conceived that neither the magnitude of these debts, nor any objects of public utility, require that the exemption from reimbursement, contained in the act of the last session, should be continued. If, however, the proposition now made should be adopted by Congress, it will be proper that an option should be reserved to the States to receive or reject, at their pleasure, a reimbursement equivalent to that made on the residue of the six per cent. stock at the commencement of the present year. It may, however, be safely presumed that each of the creditor States will readily comply with a measure obviously tending to produce an accommodation to the Government.

It is conceived to be a true construction of the law, that the annual reimbursement upon any stock, which may be in a state of transition to, or from, the Loan Offices or Treasury respectively, and on that account, not in a state to be included in a dividend at the usual period, may be lawfully made at the end of the ensuing quarter, at the office where the stock may then remain.

This construction is necessary to a due and regular execution of the law, and is supposed not to be inconsistent with the limitation which forbids the reimbursement of a greater sum than eight per centum on account of principal and interest in one year. It would be unreasonable if an act of the creditor were to be construed to preclude the right of the public to discharge the annuity at the regular period. If, however, any doubt should exist as to the powers of the Treasury upon this point, a Legislative explanation will be advisable.

The trusts vested in the Commissioners of the Sinking Fund, in respect to the reimbursement of the Public Debt, and for other purposes, are, at present, of high responsibility and importance, and

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such as will require frequent decisions upon representations from the Treasury Department. It is, in every sense, proper, that the documents received by the Commissioners, and their determinations thereon, should be fully recorded, and carefully preserved by some confidential person, to be appointed by them. An annual provision of a sum not exceeding two hundred and fifty dollars, for the services of a secretary, will be sufficient for the object, and is advisable.

It is already known to the committee, that the proposal for converting the Foreign Debt into a funded domestic stock, has not been accepted by the creditors in Amsterdam and Antwerp. It was foreseen, that the trouble of maintaining a distant correspondence, the necessity of employing agents in this country, the chances of exchange and the charges of insurance and commissions, would powerfully operate to deter the creditors from acceding to any commutation of their contracts on the principles proposed. The additional interest of one half per centum was intended to counterbalance these inconveniences, which were accordingly estimated on a scale liberal for the creditors; whether the allowance will be considered by them as an adequate compensation, is uncertain. As, in accomplishing the object of a re-loan, the United States will necessarily have to oppose many interests and some prejudices, it is

desirable to render the proposal of the Government free from all real objections; that which has been urged with the most force, arises from the redeemable quality of the new stock.

The documents in the possession of the committee contain data upon which an opinion is now expressed, that a renunciation of the right of redemption, until the year 1819, would be attended with no inconvenience to the United States, by prolonging the existence of the Public Debt.

Considering the great amount of the debt in Holland, the unsettled state of that country, and the extensive operations which either a re-loan or direct reimbursement must occasion, it is conceived to be advisable that a discretionary power of appointing a commissioner or agent to superintend the foreign expenditures should be vested in the President.

Though it is not certain that such an appointment will be necessary, yet there are sufficient grounds to recommend a provision for such a contingency.

I have the honor to be, with perfect respect, sir, your most obedient servant,

OLIVER WOLCOTT, Jun.,  
*Secretary of the Treasury.*

The Hon. WILLIAM SMITH,  
*Chairman of the Committee of Ways and Means of the House of Representatives.*

*Statement exhibiting the operation of the act, entitled "An act making further provision for the support of Public Credit, and for the redemption of the Public Debt," in respect to the reimbursement of the six per cent. stock, bearing a present interest.*

Term, being the close of the year.	Rates per centum due on the original capital in each year, after the payments made, to the end of the preceding years, are deducted.			Rates per centum due for interest in the 1st, 2d, and 3d quarters of each year.		Rates per centum payable at the end of the 4th quarter of each year, on account of principal and interest.	
	Years.	Dollars.	Parts.	Dollars.	Parts.	Dollars.	Parts.
1795	1	100	—	1	.50	3	.50
1796	2	98	—	1	.47	3	.59
1797	3	95	.890	1	.439	3	.683
1798	4	93	.632	1	.405	3	.785
1799	5	91	.250	1	.369	3	.893
1800	6	88	.725	1	.331	4	.007
1801	7	86	.049	1	.291	4	.127
1802	8	83	.212	1	.249	4	.253
1803	9	80	.205	1	.203	4	.391
1804	10	77	.017	1	.156	4	.532
1805	11	73	.638	1	.105	4	.685
1806	12	70	.056	1	.051	4	.847
1807	13	66	.260	—	.994	5	.018
1808	14	62	.236	—	.934	5	.198
1809	15	57	.969	—	.870	5	.390
1810	16	53	.448	—	.802	5	.594
1811	17	48	.654	—	.730	5	.810
1812	18	43	.574	—	.654	6	.038
1813	19	38	.188	—	.573	6	.280
1814	20	32	.480	—	.488	6	.636
1815	21	26	.428	—	.397	6	.809
1816	22	20	.014	—	.301	7	.097
1817	23	13	.215	—	.199	7	.403
1818	24	6	.008	—	.091	6	.096

*Internal Revenue.***INTERNAL REVENUE.**

[Communicated to the House of Representatives,  
March 7, 1796.]

TREASURY DEPARTMENT, March 5, 1796.

SIR: I have the honor to transmit herewith certain statements, which have been prepared by the Commissioner of the Revenue, in pursuance of the resolutions of the House of Representatives, passed on the 2d day of March, 1795, and the 26th day of February, 1796, with a report explanatory thereof, by that officer.

I have the honor to be, &c.,

OLIVER WOLCOTT, Jun.,  
*Secretary of the Treasury.*

The SPEAKER of the House of Representatives.

*A report of the Commissioner of the Revenue, required by the order of the House of Representatives of the 2d day of March, 1795, concerning the internal revenues of the United States.*

TREASURY DEPARTMENT,  
*Revenue Office, Feb. 29, 1796.*

The order of the House of Representatives having been made at the expiration of its last term, a report could only be made to the present House. On the day following the receipt of the order, circular letters, communicating the substance thereof, were transmitted to the supervisors. These letters contained also explicit and particular instructions, intended to insure the requisite attention to punctuality and to the necessary details, as will appear from the annexed copy. With a view to expeditious and easy communications from the supervisors to the inspectors, printed copies were transmitted to the former, for all of the inspectors of surveys as well as for themselves. As circumstances immediately preceding the order of the House had convinced those who had to pay the tax, that the revenue laws would be executed in future, and had removed some of the difficulties which had impeded and greatly disordered the antecedent business, it appeared expedient to reinforce, by the influence of this Legislative call, the injunctions which had been previously given to settle and return, as far as was then possible, all that remained in arrear. To prevent inconvenience from accidents, and to increase impression, duplicates of those letters were also transmitted.

One of the acts concerning snuff and snuff mills, requiring an annual report of the revenue from that object to be made to Congress, a special circular letter upon that subject was transmitted to the supervisors, shortly after the circular communication above mentioned, and nearly six months before the expiration of the first year of the operation of the snuff tax.

Immediately before the time when the five new duties would have existed an entire year, other letters were transmitted to the supervisors, calculated to promote their attention to the objects required by the House, and requesting them immediately to furnish, for Legislative and Executive

use, anticipated estimates of what each of the internal revenues might be expected to produce in the year 1796.

Other letters, partially circular, have been transmitted, at different times, to those supervisors who continued to be most in arrear as to these and their other returns. Besides which, special letters, as frequent, and in terms as urgent, as circumstances required and admitted, have been addressed to some of the supervisors, and indeed to other officers of the revenue, who, from considerations of weight, cannot be instructed immediately from the Treasury on ordinary occasions.

But, although a perfect respect to the order of the House, and the proper duties of this office, have produced these early and repeated communications to the supervisors, it is not intended to convey the idea, that they, or the other officers of the revenue, have made less exertions than any other description of persons in the public service. For, it is believed, that a comparative view of their services and duties would produce different impressions. It is, however, true, that the embarrassments and difficulties of the revenue business have been met by inadequate exertions in some instances. These cases have been the subjects of explicit communications with the proper officers. But it is doubted whether a complete remedy can be applied without transferring the tax upon spirits to the stills.

When the order of the House was received at this office, the reflection occurred, that the first year of the five internal revenues established in 1794, would not terminate until the 30th of September, 1795; and that the revenues from both kinds of domestic distilled spirits and from stills, would have their nearest annual period on the 30th of June following the receipt of the order. It was only on the same 30th of June that the existing arrangement of officers and compensations would have been in operation for an entire year in relation to all the revenues which are considered as parts of the system of internal taxation. It appeared desirable, therefore, and indeed necessary, to make preparation for statements, which should respectively terminate on those two days of June and September 1795, and a return of officers and compensations, as of the first of those days being the middle of the year. When, however, it is remembered, that the statements of the familiar and unembarrassed business of the customs, concentrated as they are, in each instance, in a single port and post-town, cannot be conveniently made up at the Treasury, for any year, until near the close of the year following, much longer time will appear necessary in the case of the internal revenues. Some of these are new, one litigated, and the largest of them has been the subject of forcible opposition and coercion. They are moreover so scattered, that one or the other of them accrues in every county, and in almost every township of the United States.

The following statements, A, B, C, D, E, F, and G, contain an exhibition of all the returns,



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whether formal or irregular, which have been yet received at the Treasury. To those papers are added such supplementary estimates as we possess materials to justify. The paper H contains a list of the officers, with their compensations. The paper I is a copy of the act of the President, establishing those compensations. The paper K is the general statement of those revenues, with all the expenses of collection. The drawbacks are inserted in the particular statements of the several revenues, so far as they are ascertained. These statements are accompanied with some remarks, which may contribute to place the subject within the view of the Legislature.

1. The gross revenue from spirits distilled from domestic materials and from stills appears, by the accompanying statement and estimate A, to amount to 218,036 dollars and 16½ cents, for one year, ending on the 30th of June, 1795.

The two earliest and largest estimates of that branch of the spirit tax, which were made in December, 1790, resulted in a gross amount of \$270,000

But, since the passing of the law of 1791, which was predicated on those estimates, the duty on spirits from domestic materials has been reduced from nine to seven cents, being two-ninth parts of the whole; for which, of course, there is to be deducted from the estimate - \$60,000

The yearly duty upon the capacity of the still has also been reduced from sixty to fifty-four cents, since the passing of the act of 1791. This difference, taken upon only one-fifth part of the whole \$270,000, gives the sum of - 5,400

Since that year, monthly licenses, not contemplated by the estimates, have been allowed by law, and an opinion is held at the Treasury, grounded on a report made upon experiments by distillers, that, in consequence of that allowance, the duty, in the case of stills employed on grain, may be easily reduced from seven cents to four cents and one-half, and in the case of fruit, from seven cents to four cents per gallon. If this be taken at the minimum of two cents and one half per gallon, it will justify a deduction of - 37,500

102,900

And the sum of - \$167,100 will be left as the just and true residuum, after thus deducting, from the original estimate, the aggregate of those excisions from this duty which

have been actually made by the law of 1792. Instead of that sum, there can be no doubt, from the face of the statement A, that a larger amount has accrued and will be collected. And if the statutes concerning this branch of the revenue had not been greatly frustrated by the unavoidable want of a law officer, to prosecute the pleas of the United States in a productive district, a confident belief is entertained, that it would have yielded a sum nearly one-third larger than the residuum above stated.

To collect, with an effect really equal to previous estimates, so very small a revenue over the face of an extensive and sparsely-peopled country, under the disadvantages of necessarily imperfect and untried laws, of prejudice, and even opposition, will be considered as favorable to the general character of the revenue officers in the districts. It is, moreover, to be remembered, that there are some occasional circumstances, which might have been expected to produce a defalcation of the duties upon spirits from domestic materials. The excessive prices of grain, of marketable and exportable fruit, and of cider, have deprived the distillers of a very large portion of the means to employ their stills. In all places, the inducements to distil have been greatly diminished by the increased competition of the miller and merchant for every species of grain. It might have been supposed, too, that the great additional importations of foreign spirits\*, of low priced wines,† and of malt liquors,‡ with the multiplication and extension of the manufactories of the latter, concurring with those circumstances, would have reduced the revenue on spirits from domestic materials, far below all former expectation. Yet this does not appear to be the case. It is worthy of remark here, that, on a calculation predicated upon the premised facts, the quantity of spirits, from fruit and grain only, which have been subjected to the revenue in the United States in the reported year, appears to be greater than the average of the same branch in England during the last thirty years, notwithstanding the more strict and rigorous nature of their laws. If these objects have produced there a greater sum, it is because the duty is much higher. A comparison with the same revenue, under the laws of certain of the States, would be still more favorable to the operation by the United States. Pennsylvania, for example, collected in the year 1790, from an excise of eight cents and eight ninths, upon foreign and domestic spirits and upon all kinds of wine, much less than is now collected from spirits made from domestic materials only, though her territory is crowded with emigrants consuming her produce, and she contributed very largely to the supply of the Western and Militia armies out of the crop of 1794.

\*The quantity of foreign distilled spirits, imported in the year ending on the 30th September, 1790, was 3,678,199 gallons. That in 1794 was 5,699,369 gallons.

†The quantity of wines, other than those of Madeira, imported in the year ending on the 30th of September, 1790, was 607,561 gallons. That in 1794, was 1,336,076 gallons.

‡The quantity of beer, ale, and porter, imported in the year ending on the 30th September, 1790, was 70,564 gallons. That in 1794, was 331,458 gallons.

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2. The tax upon spirits distilled from foreign materials appears, by the same accompanying statement A, to amount to \$141,989 15½ for one year, ending likewise on the 30th day of June, 1795.

The estimates of 1790, already referred to, resulted, in regard to the tax on spirits from molasses, in the gross amount of - \$385,000 00

But, since the passing of the first law, in 1791, which was predicated on those estimates, the duty on this kind of spirits has been reduced from eleven to nine cents per gallon. Wherefore, there are to be deducted two-eleventh parts of \$385,000, being - 70,000 00

315,000 00

Allowances for leakage and for prompt payment were also made, for both of which there is yet to be deducted about - 6,662 50

\$308,337 50

The revenue from spirits distilled from foreign materials, in the year ending with June, 1795, was, according to statement and estimate A, \$141,989 15. The defalcation of this branch of the revenue appears, therefore, \$166,348 35. But the importation of molasses, in the year 1794, was less than that in 1791, by 3,700,000 gallons. Allowing something extraordinary for the portion which would not have been used in distillation, the duties on the remainder, at nine cents per gallon, would more than counterbalance that sum: To this deficiency in the supply of molasses, it is probable that something might be added for the increased consumption of it in substance on account of the high price of sugar. These circumstances not only explain the 'defalcation' of the tax on spirits distilled in the United States from foreign materials, but afford ground of conviction, that a great revenue from this source has been prevented only by the extraordinary nature of the war in the West Indies. As to the future course of the business, there appears little uncertainty in the expectation that the restoration of the molasses trade, the reduction of the prices of grain abroad and at home, and the increase of fruit, or even the two latter, should molasses continue to fail, will render the revenue from domestic spirits highly valuable; especially if further modified by the Legislature.

The estimates of the duties on sales at auction, snuff and snuff mills, refined sugar, carriages, and licenses to retail wines and foreign distilled spirits, were formed upon grounds which are unknown at the Treasury, having been made by a committee of the House of Representatives. It appears highly probable, however, that any information which could have been attainable at that time, must have been very imperfect and uncertain, and it is to be remembered, that alterations in the bills which produced diminutions in the product, were made during their passage through

the Legislature. On these five duties, the following observations occur:

1. The auctioneer's tax, according to the statement B, amounts to \$31,593 23½, and falls considerably short of the estimate referred to. It is conceived that the numerous and extensive exemptions in the proviso to the first section of the law, the very increased agency of brokers instead of auctioneers, in the business of the seaport towns, and the multiplication of the various objects which now form our circulating medium, have greatly affected this revenue.

2. The taxes on snuff and snuff mills amount, according to the statements C and D, to \$9,511 8½, and have proved apparently the least conformable with the Committee's estimate, though it is not known what proportion they expected from manufactured tobacco. This article, which is of much greater consumption than snuff, was not subjected to duty, as proposed by the Committee. An opinion prevails, and it is believed on just grounds, that the existing law, relative to this branch of the public revenues, is either constructed upon wrong principles, or is very defective in its provisions. It is understood, also, that the productiveness of this tax has been diminished by extraordinary, though very natural exertions of the manufacturers of snuff to increase the stock on hand before the operation of the duty; and it is represented that, since the alteration of the principle of the law, the larger mills, with great powers of water and capital, have been enabled to make snuff by license, so as to reduce the contribution on the pound of the manufactured commodity to a much less rate than eight cents.

3. The refined sugar tax amounts to \$34,527 86, and appears, also, by the statement B, to fall short of the original estimate; but additions will be made when all the returns shall be received. The defalcation may be owing not more to the imperfection of the materials which the Committee could obtain to govern their opinions, than to the increased use of the fine Muscovadoes, and of the clayed and powdered white sugars, which are understood to have been imported in a greater degree than formerly. These have facilitated a prudent economy, to which the prices of many of the necessities of life have invited the consumer.

4. The tax upon carriages for the conveyance of persons appears, by the statement B, to have produced \$41,421 17. The members of the Legislature are generally informed that a question has been raised, in an extensive State, about the constitutionality of the law which imposes it. That circumstance is conceived not only to have diminished the revenue in that district, but in some other places. As it was, for obvious reasons, highly desirable to have this point immediately settled, every exertion was made, short of precipitating the decision, to bring it early before the District Court. The Judges of that tribunal were divided, and the case was carried by appeal to the Supreme Court of the United States. It was endeavored, on the part of the Government, to have the question finally argued in August last, but, from circumstances on the side of the defendant,

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it became necessary to acquiesce in a postponement until the February term. It is understood that the revenue of the current year will be further diminished by the unavoidable delay of a decision.

5. The statement G exhibits the gross revenue from licenses to retail wines and foreign distilled spirits, at \$54,731 54, so far as returns have been received at the Treasury. It was to be expected that the amount would fall considerably below the original estimate, because the spirit licenses were confined to the retailers of foreign spirits, contrary to what seems to have been the first intention of the Committee. This not only diminished greatly the number of licenses, but is supposed to have facilitated evasions of the law. It is not doubted, that the occurrence of the month of entry (September) so soon after passing the license act, may have prevented that timely promulgation of it which was necessary to the perfect collection of this tax. A similar reflection arises with greater force in regard to the carriage tax; and, indeed, the arrangements necessary to carry into execution the several laws concerning the five new duties, required more time than intervened between the beginning of June and the month of September.

The paper H contains the names of nearly all the officers employed in the business of the internal revenues throughout the United States. Judging by a comparison with facts in the scene most adjacent to the Seat of Government, these are less numerous than the corresponding officers of the States. The collectors, alone, of the revenues of the State of Pennsylvania, all of which are of course internal, are believed to be very many more in number, as well in fact as in proportion to the respective aggregates of the taxes, than all the officers of every description employed in that district to superintend and collect the six duties of the United States, which are the subjects of this communication. Throughout the Eastern parts of the Union, it is understood that there is a collector of their taxes in every township, which must give a number greater, in that quarter alone, than that of all the officers of the internal revenues of the United States. In the other parts of the Union, it is believed that there is considerably more than the proportion of one collector of State dues in each county, on a medium. It is certain that the internal revenue officers of every class, upon the Federal Establishment, are fewer in number, although one description of them (the auxiliary officers) has been appointed for the sole purpose of bringing conveniently near to the payers of certain of the taxes, an office of entry and application.

The apparent emoluments of the officers, and the expenses of collection, though not higher than has been expected, if accurately considered, must be taken in conjunction with several connected circumstances.

Some of the supervisors and inspectors have allowances for preparing or signing certificates for foreign distilled spirits, wines, and teas, which, not being conveniently separable, appear, in their general mass of charges, on the internal revenues.

They are, however, not considerable. For the important service of checking, on land, the great import duties on those three articles, these revenue officers receive no other than the very small allowance which is just referred to. A puncheon of spirits, worth one hundred dollars, yields to some one of them in a district, no more than two cents and one-half; and a cask of wine, worth forty dollars, yields, in like manner, but a single cent. The supervisors and inspectors' office rent, fuel, and clerk hire, the value, or hire, of the collectors' horses and their keeping, together with their own expenses when on the road, are deductions from their emoluments. The postage of letters and packets, which greatly contribute to swell the incidental expenses, are all returned into the public Treasury, except the allowances to the post officers. Most of the supervisors, and several of the inspectors, perform necessary and important duties, auxiliary to some of the officers of the several Executive Departments, on terms very far, indeed, below what would be accepted by any special agent, public or private.

The statements and estimates accompanying this report contain the substance of all the returns and documents concerning the internal revenues for the year to which they relate. Such papers as may be received during the course of the session, are proposed to be digested into a supplementary statement.

TENCH COXE,  
*Commissioner of the Revenue.*

## [CIRCULAR.]

TREASURY DEPARTMENT,  
*Revenue Office, May 16, 1795.*

GENTLEMEN: I have been obliged to postpone, until this day, a communication to you concerning a resolution of the House of Representatives of the 2d of March last. It did not reach my hands till yesterday-afternoon. The resolution requires, that there be laid before the next Congress "such a statement of the internal revenues as will ascertain, with precision, the net product thereof, and the expense of collection;" also, "a list of all the officers employed in that service, and the compensation allowed to each of them."

Completely to effect these several objects, and as the basis of the relative observations and explanations which should accompany the statements from the Treasury, it is necessary that early and particular attention be paid to the following points:

1. The completion of all the returns and abstracts relative to retailers' licenses, sales at auction, carriages, refined sugar, and snuff and snuff mills, until the 30th of September next, on which day the first year of those revenues will end.

2. The completion of all the returns and abstracts relative to the distillation in cities, towns, and villages, and from foreign materials, from the first day of July, 1791, until the 30th day of September, 1795, the return for each quarter, now unreturned, to be transmitted to the Treasury, as soon as completed.

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3. The completion of all the returns and abstracts relative to the distillation from domestic materials, in places other than cities, towns, and villages, and to stills, as far as the same can, by every exertion in your power, be completed. From the first day of July, 1791, to the last day of December, 1794, they should be made up by the close of the current quarter, the 30th of June next. These, also, should be immediately sent forward, as each shall be completed. I recommend, too, such exertion as will possess the Treasury of the abstract, relative to the half year, now current, by the close of the year 1795.

4. The completion of the quarterly accounts current, with the proper accompaniments, from July 1, 1791, to the 30th day of September, 1795, and the transmission of each of them, which is, at this time, incomplete, as soon as it shall be made up.

5. A complete list of all the inspectors of surveys, inspectors of the revenue for the ports, collectors of the revenue, auxiliary officers, and deputies of the inspectors of the revenue for the ports, as the same shall stand in the month of June, 1795, exhibiting the salary allowed to each, and an estimate of the commissions, fees for marking stills, &c.; also, the surveys, divisions, and counties. To these you will prefix a similar exhibition of all the emoluments of the supervisors.

Should anything further occur likely, in your opinion, to give to the Legislature a perfect view of the revenue service, and of its results, you will be pleased to add such information.

I am, gentlemen, very respectfully, your most obedient servant,

TENCH COXE,

*Commissioner of the Revenue.*

*The Supervisors of the Revenue.*

[The tables accompanying the Report are omitted.]

DIRECT TAXES.

[Communicated to the House of Representatives, December 14, 1796.]

TREASURY DEPARTMENT, Dec. 14, 1796.

SIR: In obedience to the resolution of the House of Representatives, of the 4th of April, 1796, I have the honor to transmit a report, containing a plan for laying and collecting direct taxes, by apportionment among the several States, agreeably to the rule prescribed by the Constitution.

I have the honor to be, with perfect respect, sir, your obedient servant,

OLIVER WOLCOTT, JR.

The Hon. the SPEAKER

*of the House of Representatives.*

The Secretary or the Treasury has, during the recess of Congress, directed his attention to collect such information as appeared necessary to enable him to comply with the resolution of the House of Representatives, passed on the fourth day of April, 1796; and though, from

the importance and complexity of the subject, more time and leisure would have been desirable, yet, in obedience to the said resolution, he most respectfully submits the following report:

The duty enjoined is to "report a plan for laying and collecting direct taxes by apportionment among the several States, agreeably to the rule prescribed by the Constitution; adapting the same, as nearly as may be, to such objects of direct taxation, and such modes of collection, as may appear by the laws and practice of the States, respectively, to be most eligible in each."

The amount of the proposed tax not being specified in the resolution, the Secretary presumes it to have been the intention of the House that the sum to be apportioned should be sufficient to consummate the system which was established in March, 1795, for the reduction of the present debt of the United States, and commensurate to the probable exigencies of the Government.

This construction has appeared the more reasonable, because necessary to prevent the measures then adopted, from producing effects in some degree opposite to what were intended. The public faith having been pledged to reimburse a great portion of the debt, which lately rested in permanent loans, sufficient revenues for this object, and all necessary expenses of Government, must be provided, or recourse had to a continued system of borrowing. If this last expedient should be resorted to, the public burdens, though the debts may change their form, will remain substantially the same. The Government will, moreover, be liable to certain risks and expenses, which inevitably attend extensive contracts; and unless it shall be found practicable to obtain new loans on terms at least as favorable as those to be extinguished, the public debts will be somewhat increased by the inefficacy of the measures which were intended to reduce them.

It will not escape the attention of the House, that the causes which at present most favor the prosperity of the United States, and, consequently, increase the ability of the people to pay taxes, are such as oppose obstacles to the negotiation of new loans, or, at least, render their terms peculiarly burdensome and expensive. But, while it would be improper to encourage an expectation that the affairs of this extensive and enterprising country can be successfully conducted without an occasional application to this resource, it ought to be a fixed principle to establish a permanent revenue, adequate to every permanent expense, and sufficient to discharge, in a reasonable time, all loans arising from extraordinary and unforeseen contingencies. This principle has already been recognised by the act of March 3d, 1795, which has solemnly pledged the public faith for the reimbursement of the debt now existing; it, therefore, only remains to embrace the present period, as the most auspicious which has yet occurred, and as favorable as any which may be expected, for establishing and maturing such systems as will efficaciously fulfil the intentions of the Legislature.

As necessarily connected with the question,

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how far additional revenues are requisite, the Secretary has deemed it proper, though not enjoined by the resolution of the House, to present a concise statement of the finances. The period selected for this purpose is the first day of July, of the present year, at which time the debts of the United States were of the following descriptions and amounts:

1st. The foreign debt, consisting of loans obtained by the late and present Government in Amsterdam and Antwerp, amounting to twenty-nine millions five hundred thousand guilders; equal, at forty cents per guilder, to -	\$11,800,000 00
2d. The six per cent. domestic stock, now in course of reimbursement -	29,344,752 98
3d. The six per cent. domestic stock, upon which reimbursements are to commence in the year 1801 -	14,578,882 39
4th. The three per cent. domestic stock -	19,597,545 93
5th. The five and a half per cent. domestic stock -	1,848,900 00
6th. The four and a half per cent. domestic stock -	176,000 00
7th. The unfunded registered debt, exclusive of arrearages of interest prior to the year 1791 -	179,953 16
8th. The debts due to the Bank of the United States and the Bank of New York -	6,200,000 00

The sums before enumerated are precisely ascertained by the records of the Treasury, and amount to

83,726,034 46

There are, however, in circulation, various descriptions of certificates, the amount and value of which are not exactly ascertained, which, with the balances of certain unliquidated accounts and arrearages of interest, may possibly rise to

1,124,404 24

The entire amount of all those capitals, upon which an expenditure is incurred, and for which provision is necessary, may, therefore, be estimated at

84,850,438 70

To reconcile this representation with reports heretofore made from the Treasury, and to prevent erroneous opinions from being entertained respecting the real amount of the public debt, it appears proper to represent that the following sums are indisputable off-sets against the capitals before enumerated:

1st. Six per cent. stock, bearing a present interest, already purchased or redeemed, and vested in the Commissioners of the Sinking Fund -	\$1,170,232 13
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2d. Six per cent. stock, on which interest will accrue after the year 1800 -	930,753 91
3d. Three per cent. stock, also purchased or redeemed -	610,757 94
4th. Stock of the Bank of the United States, sold by the United States, estimated at par -	2,000,000 00
5th. The sum reimbursed at the close of the year 1795, on the six per cent. stock -	544,066 54

Amounting, in the whole, to 5,255,810 52

The particulars and amount of expenditure required by the public contracts, in relation to the capitals first enumerated, calculated on an average of the respective years for which each description of debt is to continue, are as follows:

1st. The debts due in Amsterdam and Antwerp, as before stated, amount to eleven millions eight hundred thousand dollars. The contracts respecting them require annual reimbursements in unequal portions, until the year 1809, when the last payment is to be made. The whole sum required for principal and interest, on an accurate calculation, and supposing the utmost punctuality to be maintained on the part of the United States, is sixteen millions seven hundred and seventy thousand four hundred and forty-four dollars.

The average sum which will be required, during the fourteen years which this debt is to continue, is, therefore -

\$1,197,888 84

This calculation, however, supposes the practicability of such a punctual provision for the payment of interest and principal, as will entirely supersede the use of temporary credits in Europe; and it moreover supposes that remittances can be uniformly made at the par of exchange. As neither of these suppositions will be, in fact, realized, there is to be added to the foregoing sum the estimated expense of remittances above par, and for interest on temporary advances to the United States, to insure punctuality; this expense will not, probably, be less than five per centum on the annual payments, and being calculated on the average annual demand above stated, will, at this rate, amount to

59,537 30

1,257,426 14

Upon the principles herein assumed, the average sum to be provided, until the year 1809, inclusive, for the extinguishment of the Dutch debt, will be one million two hundred and fifty-seven thousand four hundred and twenty-six dollars and fourteen cents.

It is proper, however, to state that the foregoing estimate is founded on a presumption that some

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systematical plan will be adopted for satisfying the existing contracts, by direct payments from the Treasury. In every degree in which recourse may be had to new loans, the expense of reimbursement will be finally increased by at least the charges of negotiation; these, upon such loans as may be hereafter obtained in Holland, cannot be estimated at less than six or seven per centum upon the capitals which may be borrowed.

2d. The six per cent. stock now in course of reimbursement, exclusive of the sum passed to the credit of the Sinking Fund, is twenty-eight millions one hundred and seventy-four thousand five hundred and twenty dollars and eighty-five cents, upon which the annuity of eight per centum amounts to - \$2,253,961 66

The capital passed to the credit of the Sinking Fund is one million one hundred and seventy thousand two hundred and thirty-two dollars and thirteen cents; upon which the accruing interest of six per centum per annum, is - 70,213 92

Amounting to - - 2,324,175 58

This sum, last mentioned, will be annually required until the close of the year 1817. During the year 1818, the demand for the object will decline to about one million eight hundred and sixty-five thousand dollars, and will then cease by the extinguishment of the debt.

3d. The six per cent. stock, on which reimbursements will commence in the year 1801, amounted, on the first day of July, 1796, to thirteen millions six hundred and forty-eight thousand one hundred and twenty-eight dollars and forty-eight cents, exclusive of nine hundred and thirty thousand seven hundred and fifty-three dollars and ninety-one cents, passed to the credit of the Sinking Fund. The annuity on the first sum, at eight per centum, amounts to - \$1,091,850 28

And on the latter sum, at six per centum, to - 55,845 23

Being, together, - - 1,147,695 51

Which last sum will be required, from the year 1801 to the year 1823, inclusive. During the year 1824, the charge will be reduced to about nine hundred and twenty-five thousand dollars; and, after that period, will wholly cease, with the reimbursements of the debt.

4th. The funded three per cent. stock, exclusive of the credit to the Sinking Fund, amounts to eighteen millions nine hundred and eighty-six thousand seven hundred and eighty-seven dollars and ninety-nine cents; on which the annual interest is - 569,603 63

The stock of the Sinking Fund is six hundred and ten thousand seven hundred and fifty-seven dollars and ninety-four cents; and the interest thereon - 18,322 73

Amounting to - - 587,926 36

The duration of this annuity may be considered as indefinite; for, though funds for the redemption of the capital stock are eventually appropriated by the act, entitled "An act making further provision for the support of public credit and for the redemption of the public debt," yet, by a proviso to the twelfth section of the said act, the power of diverting the appropriation to other objects, is reserved to the Government.

5th. The interest on the stock bearing interest at five and a half per centum per annum, (being one million eight hundred and forty-eight thousand nine hundred dollars) will require one hundred and one thousand six hundred and eighty-nine dollars and fifty cents.

6th. The interest on the stock bearing interest at four and a half per centum, being one hundred and seventy-six thousand dollars, will be annually seven thousand nine hundred and twenty dollars.

7th the unfunded debt is of two descriptions, viz: That which is registered, being \$179,953 16

And that not registered, estimated at - - 1,124,404 24

Amounting to - - 1,304,357 40

For this debt no provision has been made by law, except a partial grant from year to year, on account of interest. So far as the debt has been liquidated, the public are bound by contract to pay an interest of six per centum per annum. Similar engagements will be expressed in the certificates hereafter to be issued; to discharge which interest there will be annually required the sum of seventy-eight thousand two hundred and sixty-one dollars and forty-one cents.

8th. The debts due to the Bank of the United States and Bank of New York amount to six millions two hundred thousand dollars; though a part of this sum was borrowed at five per centum per annum, yet, as the existing contracts are expected to be satisfied from the proceeds of new loans at six per centum, the annuity chargeable upon the revenue is calculated upon this last rate, being three hundred and seventy-two thousand dollars.

The annuities before recited comprise all the demands which will be made upon the Treasury, in consequence of the present debt of the United States; and being reduced to aggregate sums, and classed according to the epochs for which the said annuities are to continue, they will require a provision of revenue as follows:

1. From the year 1796 until the end of the year 1800, when the annuity on the deferred six per cent. stock will begin to accrue, four millions seven hundred and twenty-nine thousand three hundred and ninety-eight dollars and ninety-nine cents.

2. From the year 1801 to the year 1809, inclusive, when the present foreign debt will be extinguished, five millions eight hundred and seventy-seven thousand ninety-four dollars and fifty cents.

3. From the year 1810 to the year 1818, inclusive, when the annuity on the six per cent. stock,



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bearing a present interest, will be extinguished, four millions six hundred and nineteen thousand six hundred and sixty-eight dollars and thirty-six cents.

4. From the year 1819 to the year 1824, inclusive, when the annuity on the deferred six per cent. stock will be extinguished, two millions two hundred and ninety-five thousand four hundred and ninety-two dollars and seventy-eight cents.

5. After the year 1824, supposing the debt above mentioned to be extinguished, and the other debts of the United States to remain in their present situation, one million one hundred and forty-seven thousand seven hundred and ninety-seven dollars and twenty-seven cents.

By the establishment of a revenue adequate to the current expenses of the Government, in addition to the foregoing estimate, during the periods above recited, the following reductions of debt might be effected:

1. At the close of the year 1809, the entire amount of the present foreign debt, being - \$11,800,000 00

2. At the close of the year 1818, the six per cent. stock, bearing a present interest - 29,344,752 98

3. At the close of the year 1824, the deferred six per cent. stock - 14,578,882 39

Amounting, together, to - 55,723,635 37

After the reimbursement of the foregoing sums, there would still remain, of the present debt—

1. The three per cent. stock, being - \$19,597,545 93

2. The five and a half per cent. stock - 1,848,900 00

3. The four and a half per cent. stock - 176,000 00

4. The unfunded and unliquidated debts - 1,304,356 97

5. The debts due to banks, or the stock which may be substituted therefor - 6,200,000 00

Amounting, in the whole, to 29,126,802 90

If, however, the United States can establish a revenue equal to the scale of expenditure which will be necessary in the year 1801, the whole debt may be extinguished by payment or purchase, on or before the end of the year 1824; as, also, a considerable additional debt, if such should accrue from future contingencies.

The foregoing calculations being founded on existing contracts, are liable to but little uncertainty; it is necessary, however, to form an estimate of the probable expenses of those establishments which the United States must at all times maintain. On this subject there exists no data, from past experience, which afford a satisfactory ground for an opinion; it is believed, however, that it will be unsafe and deceptive to calculate the current expenses of Government at less than the following estimate:

For the support of the civil list	\$486,000 00
For expenses of intercourse with foreign nations	100,000 00
For the mint establishment	40,000 00
For light-houses	25,000 00
For expenses of the loan offices	12,000 00
For miscellaneous objects and contingent expenses of Government	37,000 00
For the military and naval departments, including pensions	2,000,000 00
Amounting, in the whole, annually, to	<u>2,700,000 00</u>

If it shall be found that the expenses of the military and naval departments cannot be reduced below the above estimate, which, though much to be desired, is far from certain, the foregoing calculation will fall short of the real expense; it being morally certain that the expenses of civil government will, hereafter, considerably increase.

Assuming it, however, as a principle, that the expenses of the public establishments will amount to two millions seven hundred thousand dollars, and no more, it follows that, to preserve the United States from the necessity of recurring to future loans, it is requisite to establish a revenue to continue until the close of the year 1800, of seven millions four hundred and twenty-nine thousand three hundred and ninety-eight dollars and ninety-nine cents. And from the year 1801 to the year 1809, inclusive, a revenue of eight millions five hundred and seventy-seven thousand ninety-four dollars and fifty cents.

It is a further consequence of the foregoing data that, though a revenue upon this last scale would be more than sufficient to discharge the whole public debt, on or before the year 1824, yet, that the absolute engagements of the United States will not require, after the year 1809, more than seven millions three hundred and nineteen thousand six hundred and sixty-eight dollars and thirty-six cents; which last sum is less than the annual expenditure required by existing contracts and arrangements.

Having thus presented a view of the probable expenditures of the United States, it remains to show how far the revenues already established afford an adequate resource; the particulars and amount of these revenues are as follows:

Duties arising on imports and tonnage, calculated upon the actual receipts during the year 1795	\$5,588,961 26
Duties on domestic distilled spirits and on stills, on refined sugar, sales at auction, licenses to retail spirits and wines, and on carriages for the conveyance of persons, calculated upon the receipts of 1795	337,255 36
Revenue from the Post Office	35,000 00
Dividends on bank stock, calculated with reference to certain sales, the proceeds of which will be applied to the payment of	

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part of the debt due the Bank of the United States - - -	150,000 00
Interest on stock purchased and redeemed, and vested in the Sinking Fund - - -	88,635 65
Duties on patents and contingent receipts (uncertain) - - -	746 73
Estimated annual current revenue	6,200,600 00

The revenue from imports and tonnage was, in the beginning of the year 1795, calculated at \$5,679,418 58, being about \$90,000 more than the present estimate. Fluctuations in the amount of this revenue are to be expected; what the product of the present year will be cannot be yet known, although it is certain that it will exceed, considerably, that of the year 1795.

As the present design is to ascertain, as accurately as possible, the extent in which confidence may be reposed in the existing revenues, it becomes interesting to consider what effects a termination of the present war in Europe is likely to produce. A consideration of all the causes which may contract or extend the future commerce of the United States would be evidently premature and unprofitable; it may, however, be safely affirmed that the unexampled prices which the exports of the United States have lately borne, must have stimulated the demand for, and consumption of, foreign manufactures and productions. A certain proportion of this demand will cease when the temporary causes by which it has been produced are removed. Whatever cause diminishes the consumption of imported articles will produce a corresponding decrease of the revenue from foreign commerce. There is ground, however, to hope that the unfavorable effects in regard to revenue which are to be expected from a depression of the present prices of some of our articles of export, will be counterbalanced by an increase of their quantities; by the superior value which others of them are daily acquiring, in consequence of improvements in their manufacture; by the extension of our commerce to new markets, and by the increasing demand for imported articles, which must result from progressive wealth and population.

The sum stated as the product of the internal revenues will also be considerably exceeded by the receipts of the present year, and is believed to be much below what might be obtained under a different modification of the act imposing duties on distilled spirits and stills, aided by provisions for insuring a more energetic and punctual collection in some districts. It may also be remarked, that some of the causes which may diminish the revenue from importations will tend to increase that derived from internal objects. It appears, therefore, to be safe to calculate permanently upon the collective amount of the sums which have been stated as the probable future product of both branches.

The revenue from the Post Office is likely to increase, if the expenses of that institution are

not greatly enhanced by the establishment of new post roads.

In respect to the income from bank stock held by the United States, it is proper to observe, that dividends have been for some time declared at the rate of eight per centum per annum; on the supposition that the stock would not be alienated, it has been customary to estimate this item of revenue at \$160,000. In consequence of the authority contained in an act of the last session, sales have, however, been commenced for the purpose of reimbursing a part of the debt due to the bank.

To extinguish an annuity due to the bank, equivalent to that received from the dividends, it would have been necessary to sell the bank stock at an advance of thirty-three and one-third per centum upon the original capital. This, however, was not practicable; the best terms which could be obtained were twenty-five per centum. With reference to the effect which sales, at this rate, will have upon the statement of revenue and expenditure, now presented, the proceeds of the bank dividends are calculated at \$150,000.

The fund arising from stock purchased or redeemed will be increased by the interest on such sums of stock as may hereafter accrue to the Sinking Fund, but will, in no event, be diminished. Though this income is vested in the Commissioners of the Sinking Fund, it has been thought proper to present it as an object of public revenue, being, with other funds, appropriated for the redemption of the Public Debt.

It results, from what has been stated, that the following sums must be provided by the United States, in addition to the revenue already established:

1st. From the present time until and during the year 1800, \$1,228,798 99.

2d. From the year 1801 to 1809, inclusive, \$2,376,494 50.

3d. From and after the year 1809, until the time when the present debt may be extinguished, which will be before the year 1824, \$1,119,068 36.

To provide the sums annually required until the year 1801, without imposing an inconvenient burden on the people, is evidently within the power of the United States; to reimburse the whole of the Foreign Debt before the year 1809, by direct payments from the proceeds of revenue, may be practicable. It is, however, most probable that occasional loans, with a view of postponing the final reimbursement of the whole or some part of the said debt until after the year 1818 will be judged advisable.

From a general view of the operation of the systems of taxation established in the several States, it appears that, in apportioning a direct tax, to be collected under the authority of the United States, an allowance ought to be made for a defalcation of fifteen per centum, on account of abatements to indigent and unfortunate persons, for erroneous assessments or calculations, and for charges and expenses of collection.

Assuming these data, it is proposed that there be laid upon the United States a direct tax of

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\$1,484,000, and that the same be apportioned to the several States in the following manner:

To the State of Vermont	-	-	\$28,000
To the State of New Hampshire	-	-	56,000
To the State of Massachusetts	-	-	196,000
To the State of Rhode Island	-	-	28,000
To the State of Connecticut	-	-	98,000
To the State of New York	-	-	140,000
To the State of New Jersey	-	-	70,000
To the State of Pennsylvania	-	-	182,000
To the State of Delaware	-	-	14,000
To the State of Maryland	-	-	112,000
To the State of Virginia	-	-	266,000
To the State of Kentucky	-	-	28,000
To the State of North Carolina	-	-	140,000
To the State of Tennessee	-	-	14,000
To the State of South Carolina	-	-	84,000
To the State of Georgia	-	-	28,000

Amounting to	-	-	1,484,000
From which there being deducted for abatements, erroneous assessments, and charges of collection, fifteen per cent., or	-	-	222,600

There will remain the estimated nett proceeds of the proposed tax, being - 1,261,400

An account of the systems of taxation at present prevailing in the several States, and information on various points connected with the subject under consideration, is next proposed.

**OF VERMONT.**

The taxes imposed in this State, whether for the use of the State, or of counties, towns, societies, or other subordinate communities, are levied by one rule, that is, in proportion to a general list of ratable objects, composed of the following particulars:

Polls, of male persons from twenty-one to sixty years of age, are rated at six pounds each.

Lands, after being improved two years, either for pasture, ploughing, or mowing, or stocked with grass, and within enclosure, at ten shillings per acre.

Oxen, four years old and upwards, at three pounds each.

Other neat cattle, three years old and upwards, at two pounds.

Neat cattle of two years old, at one pound ten shillings.

Neat cattle of one year old, at fifteen shillings.

All horse kind, except stud horses of three years old and upwards, at four pounds.

Horse kind, of two years old, at two pounds.

Horse kind, of one year old, at twenty shillings.

Stud horses of two years old and upwards, at twenty pounds.

Money, on hand or due, or obligations for goods or produce over and above all debts due by the individual creditors, at twenty per centum of the amount, to be exhibited on oath, if required; to which may be added—

Assessments proportioned to the profits of all lawyers, traders, and owners of mills, according

to the judgment and discretion of the listers or assessors.

Exemptions from the assessment on polls are allowed in favor of settled ministers of the Christian religion, the president and tutors of colleges, constant schoolmasters, students of colleges, until three years after receiving their first academical degrees; as, also, in favor of persons disabled by sickness or infirmity. The ratable estates of settled ministers, and the president of the college, lying in the towns where they live, and not exceeding five hundred pounds in value, are also exempted, together with all lands sequestered and improved for schools and other public, pious, and charitable uses. An exemption from taxation, for ten years, is, moreover, allowed for lands properly cleared and tilled for orchards, and planted with apple trees, and containing not less than forty trees upon an acre.

Lists of the ratable estates of individuals are collected in the following manner: At the annual town meetings in March, the inhabitants of each town elect a number of officers, styled *listers*, who are sworn to a faithful discharge of their office. In the month of May, annually, the inhabitants are warned to exhibit, before the 10th day of July following, lists or written accounts of the ratable polls and estates of which they are respectively possessed, on the 20th day of June. To these lists, as exhibited by individuals, the listers add such sums as they judge reasonable, in cases where the law requires assessments to be imposed on professions and occupations.

Lands are, in all cases, rated in the towns where the lands lie; but cattle on farms, not under the management of a tenant, are rated in the towns where the owners live. No warning by the listers is required beyond the limits of a town.

The sums total of the ratable property, in each town, are returned by the listers to the General Assembly in October, with certificates that they have been sworn to a faithful discharge of their trust; in case of omission or neglect, the listers become liable to a penalty, and the town, in respect to which the omission happens, becomes subject to be assessed, at the discretion of the General Assembly.

The possession of ratable articles on the 20th of June is, by law, declared to be presumptive evidence of property, and, if not included in the list of the possessor, he becomes liable to a two-fold assessment; on proof being made to the listers, at any time before the 25th of September, that the articles omitted to be returned were, on the 20th of June, the property of some other person than the possessor or occupant, relief may, however, be obtained.

The compensation allowed for the services of listers, arises from the taxes on two-fold assessments, one-half of which accrue to their benefit.

When individuals are aggrieved by the decisions of the listers, either in respect to two-fold assessments, or by assessments on the profits of certain professions and occupations, an appeal is allowed to a justice of the peace and two selectmen of the town, who, after notifying two or more

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of the listers, may proceed to make a final decision.

The first constables are collectors of taxes, and are chosen by the inhabitants of the respective towns, which are responsible for their conduct; when a tax is granted by the State, a warrant is issued by the treasurer, directed to the collector, declaring the rate or proportion of the tax, the sum due by the town, and the time prescribed for payment into the treasury. It then becomes the duty of the selectmen to apportion the said tax among the inhabitants of the town, according to their respective lists, and to deliver a statement thereof to the collector, by which to regulate his demands upon individuals; a time and place is then appointed by the collector for receiving the tax, which the inhabitants are bound to observe; on failure of payment at the time and place appointed, the collector may afterwards distrain the goods and chattels of delinquents for the amount of the tax, with an addition thereto of one-twelfth part for extra trouble and expenses. Where no goods or chattels can be found or are tendered, the person of the delinquent may be committed to prison. If the delinquent abscond, and no goods or chattels can be found, the lands of the delinquent become liable, of which a sufficient quantity for the payment of the tax and the necessary charges, may be sold at public auction. Prior to the sale of lands, notice of the proposed sale must, however, be given for three weeks in the town in which the land lies, and in two adjoining towns; as, also, in one or more of the newspapers printed in the State. Lands sold for the payment of taxes may, however, be redeemed at any time within one year after the sale, by the payment or tender of the sum advanced by the purchaser, with interest at the rate of twelve per centum per annum.

When a collector is delinquent in collecting and paying over a tax entrusted to his management, it becomes the duty of the treasurer to issue a warrant, directed to the sheriff of the county, commanding him to collect the sum unpaid, by distraining the goods, chattels, and estate, of such collector. In case a sheriff omits to execute the warrant of the treasurer against a delinquent collector the treasurer is empowered to issue a like warrant against the sheriff, directed to a constable of the town in which the sheriff lives; and if a constable, in such case, should omit to collect the tax from the sheriff, he, in turn, becomes liable, and the treasurer may commit the collection of the sum unpaid to any other person, at his discretion.

When a collector of a tax becomes insolvent, the treasurer may issue his warrant against the selectmen of the town, directed to the sheriff of the county, who, in this case, become liable for the arrearages due by the insolvent collector. The selectmen may, however, indemnify and reimburse themselves, by assessing a sufficient tax upon the town, for collecting which, the warrant of any one justice of the peace is a sufficient authority.

Though the office of collector is, by law, attached to that of first constable, which depends

upon an annual election by the people, yet, in respect to unpaid taxes, the powers of the collector continue until a final collection and settlement can be effected; and, in case of the death of a collector, his powers and responsibility, while living, descend to his executors or administrators. If, however, a collector remove out of the State, or die, and his estate is found to be insolvent, the people of the town may proceed to the choice of a new collector.

All persons employed in the collection of taxes possess the usual power and authority of sheriffs, and may command any assistance necessary to the performance of their duty.

## OF NEW HAMPSHIRE.

The Constitution of this State directs, that a valuation of all estates shall be made, at least, once in five years, under regulations to be prescribed by the General Court or Legislature. The last valuation was made by the selectmen of the several towns, in 1793, and confirmed by law, in, February, 1794. In taking said valuation, the proportions of the different articles, of ratable property were estimated in the following ratio:

Polls of male persons, from eighteen to seventy years of age, at eight shillings each.

Orchard land, accounting for an acre, a sufficient quantity to produce, on an average of several years, ten barrels of cider or perry, at one shilling and sixpence per acre.

Arable land, accounting for an acre, a sufficient quantity to produce, on an average of several years, twenty-five bushels of Indian corn, or other grain equivalent, at one shilling per acre.

Mowing land, accounting for an acre, a sufficient quantity to produce, on an average of several years, one ton of English hay, or other hay equivalent, at one shilling per acre.

Pasture land, accounting for four acres, a sufficient quantity to support, on an average of several years, one cow, at fivepence each acre.

Unimproved lands, and all buildings, whether owned by inhabitants or non-residents, at one-half of one per cent. of the real value.

Stud horses, two years old and upwards, at one pound ten shillings.

Other horse kind, four years old and upwards, at three shillings.

Oxen, four years old and upwards, at three shillings.

Cows, four years old and upwards, at two shillings.

Other neat cattle, three years old and upwards, at one shilling and sixpence.

Other neat cattle, two years old, at one shilling.

Other neat cattle, one year old, at sixpence.

All stock or property of tanners, curriers, blacksmiths, or other tradesmen, employed in the business of trades, at one-half of one per centum.

All stock in trade of merchants, shopkeepers, or other traders, reckoning the same at the average value thereof for a year, at one-half of one per centum.

All money on hand, or at interest, more than

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the owner pays interest for, and all property in public funds, estimated at its real value, at three-fourths of one per centum.

Mills, wharves, and ferries, at one-twelfth part of their yearly nett income, after deducting repairs.

The polls and ratable property returned from the different towns, with the assessments upon such towns as did not comply with the act prescribing a valuation, amounted, in 1794, to forty-two thousand and ninety-nine pounds six shillings and fourpence, or one hundred and forty thousand three hundred and thirty-one dollars and five cents. In proportion as the lists of the several contributed to this amount, their quotas were established by law, to continue until a new valuation may be made. The quantities of the different kinds of ratable property, of which the list was composed, will be seen by reference to an annexed document, A.

When a tax is granted by the State, the quotas of the several towns are calculated according to the rule above mentioned; warrants are then issued by the Treasurer of the State, directed to the selectmen, requiring them to assess the said quotas upon the inhabitants. The assessments upon individuals are governed by the principles of the rule by which the quotas of towns are determined. The selectmen are, therefore, empowered to require, annually, inventories of the polls and ratable property of the inhabitants. The time for taking these inventories, is the first day of April in each year. Those who omit to exhibit inventories, or refuse to verify the same on oath, when required, may be doomed or assessed by the selectmen, as they judge equitable. In cases where it is discovered that there has been a fraudulent concealment of ratable property, by an individual, the selectmen are empowered to increase the assessment to four times the amount at which the concealed property would otherwise have been rated.

The selectmen are empowered to abate taxes, and to correct erroneous assessments. Individuals who are aggrieved, may, within nine months after notice of an assessment, apply by petition to the court of sessions of the peace for the county, whose judgment is conclusive.

To prevent trouble and expense from repeated collections during the same year, the selectmen may include, in one tax bill, the taxes granted by the State, the county, and the town, with an addition of five per centum to cover defalcations arising from abatements or other causes; the surplus of which, if any is found to remain, accrues to the treasury of the town.

Collectors of taxes are either chosen by the inhabitants, or they may be appointed or employed by the selectmen, from whom they receive tax bills, with warrants to collect the sums therein expressed. The selectmen are directed to cause their proceedings, in assessing taxes, to be recorded by the town clerks, and to make returns to the treasurers of the State, county, and town, of the sums assessed to be paid to them respectively, with the names of the collectors, the dates of

their warrants, and the time therein prescribed for the settlement of the taxes entrusted to them for collection.

In cases where the selectmen neglect to assess a tax pursuant to a warrant from the treasurer, their persons and estates become liable to the payment of the tax, which may be taken and distrained for the same. When the name of the collector is not returned to the treasurer, pursuant to warrant, the selectmen also become liable, and are, moreover, precluded from any remedy against the town for any costs and expenses attending the collection, exceeding the quotas mentioned in the treasury warrant. If the estates of the selectmen are found to be insufficient, or their persons cannot be taken and imprisoned, the treasurer may issue his warrant against the inhabitants of the town generally, who, in this case, become, jointly and severally, responsible.

The collectors of taxes are required to give fourteen days' notice of the sums assessed upon individuals, before they proceed to collect the same by distress; and in no case is it lawful to take by distress the tools or implements necessary to the trade or occupation of any person, nor his arms, or the necessary household furniture of a family.

For want of goods or chattels whereon to make distress, the person of the individual indebted may be taken and committed to prison.

When no personal estate can be found whereon to levy by distress, and the person of the delinquent cannot be taken, real estate may be taken and sold for the payment of taxes, under certain prescribed regulations, calculated to give publicity to the sale. On the sale of real estate, according to law, the collectors may execute conveyances, defeasible within one year, by the payment or tender of the sum advanced, with interest and costs.

The powers of collectors continue until the taxes committed to their management are finally adjusted. Their compensations are various, and depend upon agreements with the selectmen of the several towns; on a medium calculation, they are estimated from four to five per centum on the amount of the taxes. It is customary to require bonds, to secure the towns against their delinquencies.

The time, commonly prescribed for collecting and paying a tax into the treasury, is one year. In what degree the requirements of law, in this respect, have been fulfilled, is not ascertained. It is to be inferred, from the information received, that delays beyond the prescribed term frequently occur, and that, when heavy taxes have been imposed, arrears have remained uncollected for several years, which have been afterwards entirely remitted. The principles of the system of taxation, now established, have been generally approved by the people of the State.

The existing debt of the State is inconsiderable, and is likely to be entirely discharged in a short time. The whole expense of supporting civil government, paid by the State, is estimated at about twenty-eight thousand six hundred dol-

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lars per annum. The aggregate amount of county, town, and parochial taxes, is known to be more considerable, though not ascertained.

\* OF MASSACHUSETTS.

The Constitution of this State provides, that, while the public charges of Government, or any part thereof, shall be assessed on polls and estates, in the manner practised prior to the establishment of the said Constitution, there shall be a valuation of estates taken, once in ten years, and as much oftener as the General Court or Legislature shall direct.

The valuation under which taxes are, at this time, assessed, was taken in pursuance of an act passed on the 22d of February, 1792.

By this act, the assessors of the different towns, districts, and plantations, (officers always existing,) were directed to take and lodge in the office of the Secretary of State, on or before the 10th day of October, 1792, true and perfect lists of all male polls, including negroes and mulattoes, sixteen years old and upwards, whether at home or abroad; distinguishing the polls of persons from sixteen years to twenty-one years of age, from those of persons twenty-one years of age and upwards, and also distinguishing the polls of persons exempted from taxation. Also, particularly mentioning dwelling-houses, with shops within the same, or adjoining thereto, shops separate from dwelling-houses, tan-houses, slaughter-houses, sugar-houses, pot and pearlsh works, ware-houses, wharves, grist mills, fulling mills, saw mills, iron works and furnaces, bake-houses, and all other buildings and edifices of the value of five pounds and upwards; the number of tons of vessels, and small craft of every kind, upwards of five tons burden, whether at home or abroad; the amount of each person's whole stock in trade, including all goods, wares, and merchandise, at home or abroad, paid for or not paid; also, those in their hands by factorage; Government securities of all kinds, distinguishing those of the United States; all moneys placed out at interest, exceeding the sums due on interest by the individual creditors; moneys on hand, including moneys deposited with an agent, or in any bank; stock owned by stockholders in any bank; ounces of plate of all kinds; horses and neat cattle, of three years old and upwards; and swine of six months old and upwards.

In rendering lists of lands, the assessors were directed to distinguish the improvements thereon by the following criteria: The number of acres of pasture land, with the number of cows which the grass of each entire farm would support, together with the number of barrels of cider produced, on an average of several years, upon each farm; the number of acres of tillage land, with the number of bushels of grain or corn of all sorts usually produced; the number of acres of salt marsh, with the tons of hay usually produced; the number of acres of English upland and fresh meadow, mowing land, with the tons of hay of each sort usually produced; the number of cows, let out, according to

a custom, by which a proportion of their increase is reserved to the owners; the number of enclosed acres of woodland; also of lands unimproved, owned by individuals and by towns; of lands unimprovable, or used for roads, or covered with water; distinguishing each by estimate.

In making up the returns above mentioned, provision was made for exempting from valuation the polls of the president, fellows, professors, tutors, librarian, and students of Harvard College; of settled ministers, of grammar school-masters, and masters of the several incorporated academies, with their estates, under their own actual occupation and improvement, and also all the estates belonging to Harvard College, and the said academies.

The object of this minute detail of the different species of property possessed by the inhabitants, was to obtain information of the sources of the revenue or income of the whole State, and thereby to establish an equitable ratio of contribution for the several counties and towns. It was specially declared in the act, that the enumeration of the articles of the produce of the lands should not be taken into consideration in forming the valuation, for any other purpose than for ascertaining the relative value of lands in different districts. In collecting and making up the returns, the assessors were under oath faithfully to execute their trust; and they had power to require of individuals, a verification, on oath, of the lists of property by them respectively exhibited. In cases of neglect to exhibit written lists of property subject to valuation, or of refusal to attest the same on oath or affirmation, the assessors were authorized to doom or assess the individuals so neglected or refusing, according to a conjectural estimate of their property.

The result of the returns taken, according to the act before mentioned, is annexed, (B.) In determining the quotas of towns, all property, except unimproved lands, was estimated at six per centum of its supposed real value; and unimproved lands at two per centum of the real value. At these rates, the wealth of the whole State was found to be nine hundred and thirty-seven thousand six hundred and ninety-eight pounds four shillings and two-pence half-penny, lawful money; upon which sum, in combination with an assessment on polls, hereafter mentioned, the quotas of the several counties, towns, and plantations, in a tax of one thousand pounds upon the State, were established, and by these quotas, taxes are now imposed. The number of taxable polls returned, was one hundred and six thousand one hundred and sixty-seven; which were assessed one half-penny each, or two ninth parts of a tax of one thousand pounds upon the State.

The proportions of taxes payable by counties and towns, being thus settled by a rule which may continue for ten years, unless changed in consequence of a new valuation, they are assessed upon individuals, and collected under the following regulations:

In the month of March or April, annually, when other town officers are chosen, the inhabitants of



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the respective towns, severally, elect three, five, seven, or nine assessors, who are sworn to a faithful discharge of their duty. A person chosen to be an assessor, and refusing to take the oath, becomes liable to a fine of five pounds; which may, however, be remitted by the court of the general sessions of the peace, at their discretion.

If a town omits to choose assessors, or they refuse to serve, the selectmen become assessors, of course. If a town omits to choose either assessors or selectmen, or if they omit to do their duty, assessors may be appointed by the court of the general sessions of the peace for the county; who, in addition to their other duties, may be authorized to assess a fine upon the town, not exceeding one hundred pounds, nor less than thirty pounds, as may be determined by the court. The compensation allowed to assessors chosen by the towns, is four shillings per diem, while employed in service; and to assessors appointed by the court of general sessions, ten shillings per diem, payable, in both cases, out of the town treasuries.

When a tax is granted by the State, the treasurer issues his warrant, directed to the assessors, commanding them to assess the proportion or quota of the town; the sum to be assessed on each poll is always expressed in the treasurer's warrant, and is, as nearly as may be, one half-penny for each thousand pounds of the tax laid upon the State. The tax on polls being uniform, is assigned to each individual; a sufficient sum to secure a collection of the remainder of the town quota, is then apportioned upon estates. In this apportionment the assessors are directed by the treasurer's warrant, in which reference is had to the objects of taxation, and rules of estimating the same, which governed in fixing the last valuation. In making out the assessments upon individuals, the assessors are required to distinguish the proportions assessed for polls, for real estates, and for personal estate and income; also the number of acres of unimproved land for which a tax is assigned to a non-resident proprietor, and the value at which the same is estimated; also the tax assessed to any person upon property held in trust for others. The warrant moreover directs, that, when the list is completed and signed by a majority of assessors, it shall be delivered to the collector of the town, with a warrant and direction for collecting the sums therein expressed, and paying the quota of the town over to the treasurer, by a certain day. It also prescribes a day for rendering a return to the treasurer of the name of the collector.

If, for any reason, there be no assessors to execute the treasurer's warrant before mentioned, or if they neglect to perform the duties enjoined on them for the space of five months, it becomes the duty of the treasurer to issue a warrant, directed to the sheriff of the county, commanding him to collect the amount of the tax by distress and sale of the estates, real and personal, of any of the inhabitants of the delinquent town. On receiving this warrant, it becomes the duty of the sheriff forthwith to transmit an attested copy thereof to

the selectmen or town clerk of the delinquent town; if, however, within sixty days, the sheriff receive a certificate that the taxes required by the warrant have been assessed, he may return the same unsatisfied, to the treasurer.

The process pursued in executing the treasurer's warrant to assessors is similar to that before described for taking a valuation; that is, a time is prescribed, by notification to the inhabitants, for exhibiting lists of their polls and ratable property; such as omit a compliance, or as refuse to verify their lists on oath, when required, are liable to be doomed or assessed, at discretion.

Persons aggrieved by erroneous or excessive assessments, may obtain relief by application to the court of general sessions of the peace for the county.

It is a general rule to make a list for every tax which is granted; but when county or town taxes are so small as to render a separate assessment inconvenient, they may be combined with other taxes, and collected together. To cover defalcations arising from abatements, and for the purpose of avoiding inconvenient fractional divisions, the assessors may apportion, beyond the sums proposed to be raised, a surplus or addition of five per centum; provided, that such addition does not exceed forty pounds in the whole, for any town. When the assessors have completed an assessment, copies of their proceedings are lodged in the office of the clerk or register of the town.

The collectors of taxes are chosen by the inhabitants of towns, at their annual meetings, and are sworn to a faithful and diligent discharge of their trust; if no collectors are chosen, the constables are collectors, of course; in towns where no constables are chosen, the taxes are collected by the sheriff of the county or his deputies.

The towns agree with the collectors upon the sums which they are to receive for collecting taxes, and their compensations are paid by the towns respectively; these compensations vary from three to five per centum on the sums collected; when the collections are made by the sheriffs or their deputies, (in consequence of omissions to choose collectors or constables,) they are allowed to take a commission of five per centum of such persons as voluntarily pay the sums assessed upon them within thirty days after a public and general notification and demand; those individuals who neglect to pay their proportions for a longer term, become liable to the charges incident to a levy and collection by distress.

The powers of collectors are derived from warrants granted by the assessors or selectmen; these warrants accompany the lists of assessments upon individuals, and specify the quota payable by a town, the time when it is to be settled with the treasurer, and the duties of the collectors.

Unless there is reason to suspect that a person from whom a tax is due is about to abscond, no collection by distress can be made until twelve days after a demand; after twelve days, goods and chattels sufficient to satisfy the tax may be taken. The goods and chattels so taken must, however, be kept four days, at the risk and charge

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of the owner, after which, and a public notification of the proposed sale, during two days, they may be sold at public auction. If goods and chattels sufficient to satisfy the tax are not presented by the debtor, his person may be taken and committed to prison, there to remain until discharged according to the usual course of law, or in consequence of an abatement of the tax by the assessors. It is not lawful to make distress of the tools or implements of a trade or occupation, beasts of the plough necessary for the cultivation of improved lands, arms, or the household utensils, or apparel necessary for a family. When a person removes from a town, leaving a tax unpaid, the collector may pursue him and take his goods by distress, or his person, in any part of the State where he may be found.

When no person appears to pay the taxes on unimproved lands of non-resident proprietors, or improved lands of proprietors living out of the State, the collectors are to advertise the same for three weeks successively, in the newspaper printed by the printer to the State; as also in the town where the lands lie, and in three adjacent towns; describing particularly the said lands, and mentioning the taxes remaining unpaid, and the time proposed for a sale. If the taxes be not paid in consequence of such advertisement, a quantity of the lands sufficient to pay the taxes and incidental charges may be sold by the collectors, who may grant conveyances therefor, defeasible in two years, by the payment of the sums for which the sale was made, and intervening charges, with interest at the rate of ten per centum per annum. The purchaser is in the meantime, however, restrained from committing any waste or destruction of the timber on the lands so purchased. When the owners of improved lands, or other real estates, remove from the towns where they resided when taxes were assessed, leaving the same unpaid, and no personal property to satisfy the said taxes can be found, the collectors may, after three months, proceed to sell the same under the provisions and conditions before mentioned. To prevent the sale of lands without due notice, it is, however, provided that, when non-resident proprietors shall have authorized, in writing, agents or attorneys, dwelling in the towns where the lands lie, to pay the taxes accruing thereon, and shall have caused their written authorities for this purpose to be recorded in the offices of the town clerks, the collectors shall not proceed to advertise for sale the lands of such non-resident proprietors until the expiration of two months after a personal or written demand of such agents or attorneys and a failure of payment.

When taxes are made payable at two different periods, and a person assessed is about to remove from the town, the whole of the tax, although the same may not have become due, may be demanded at one time; and, if necessary, be collected by distress. The powers of collectors continue until the taxes committed to them are fully settled, although the time for which they were elected be expired; and if they are hindered or obstructed in the execution of their duty, they may, both

within and without the limits of their respective towns, command assistance, under a penalty of fine or imprisonment, if such assistance be not afforded. Personal property of a tenant found on lands at any time within nine months after a tax bill is committed to a collector is liable to be distrained for the taxes assessed on the lands in his occupancy; the proprietor of the land is, however, in this case, answerable for the value of the property distrained. If the collector forbears to levy the tax during nine months, he may not afterwards proceed, except against the person of the proprietor, or by sale of the lands in the manner before described. When persons indebted for taxes abscond or conceal their property, collectors of taxes are allowed the same remedies against their agents, factors, or trustees, as other creditors have for the recovery of their debts.

When a collector is delinquent in collecting or paying over the sums expressed in his rate bills, it becomes the duty of the treasurer to issue a warrant, directed to the sheriff of the county, returnable in ninety days, commanding him to levy the sums in arrear, by distress and sale of the real or personal estate of the delinquent collector; and, for want of estate, to commit his body to prison. If the sheriff fail to execute the warrant, or to pay the sums collected, a like warrant, directed to the coroner of the county, may be issued against the real and personal estate of the sheriff.

When no estate of a delinquent collector can be found by the sheriff, or his estate is insufficient, or when the person of the collector cannot be taken, or, being taken and committed to prison, the tax remains unsatisfied for the term of three months, the town becomes responsible, and liable to a new assessment for the deficiency. It then becomes the duty of the treasurer to notify the assessors of the town of the failure and delinquency of their collector, and to require them to reassess the deficiency, and to commit the collection thereof to a new collector. On failure of compliance for more than three months, the assessors become liable to be proceeded against in the same manner as against delinquent collectors. The property of delinquent collectors, at any time acquired, is held responsible for sums reassessed upon towns, in consequence of their neglect, and for all damages occurring thereby. When collectors die, their executors and administrators are responsible for all sums actually collected, to the full amount of all assets in their hands; and if they fail, for more than two months after the decease of the collector, to make up and settle their accounts with the assessors, they become, in like manner, responsible for any sums remaining uncollected.

When a warrant of distress is directed by the treasurer against a delinquent sheriff, deputy sheriff, or collector, and lands or real estate are taken, fourteen days' notice of a proposed time of sale must be given in at least two public places in the town where the estate lies, and also in two adjoining towns; after which, the officer executing the warrant may proceed to make sale of the estate at public auction, and may execute a valid

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conveyance therefor. If the estate taken is insufficient to satisfy the warrant and the charges of sale, the treasurer may issue an *alias* warrant or execution, which may be levied on the person of the delinquent deputy sheriff or collector.

When a collector has been taken by a warrant from the treasurer, or is supposed to be about to remove out of the State, the assessors or selectmen may require a surrender of the tax bill in his hands, with the evidences of the sums by him collected, and may convene the inhabitants of the town for the purpose of electing a new collector. If a collector abscond or secrete himself for one month, the selectmen or assessors may proceed, by a declaration, filed in the supreme judicial court, to obtain judgment of outlawry; if, however, the collector afterwards surrender himself, and pay the taxes by him due, and all costs of the process against him, and cause the settlement thereof to be recorded in the supreme judicial court, such record will operate, and be a full reversal of the judgment of outlawry.

When the estate of an inhabitant, not being an assessor, is taken by a warrant of the treasurer, issued against the inhabitants of a town generally, the inhabitant whose estate is so taken is entitled to an action against the town to recover the full value of the estate taken, with costs and interest, at the rate of twelve per centum per annum.

There are at present in Massachusetts seven-teen counties and about three hundred and eighty towns or districts, liable to be assessed for the payment of taxes. Some towns elect but one collector, others three or four, as is judged most economical or convenient. In the treasurer's books one account is opened with each town or collection district for the whole amount of the tax; if there be more than one collector, the sums which each is to pay are separately detailed. All payments are passed to the credit of the town generally, expressing, however, by whom made.

The regulations and provisions before mentioned have been found sufficient to ensure the final payment into the treasury of the taxes hitherto imposed by the State. The degrees of punctuality with which settlements have been effected are understood to have been various, according as the taxes have been more or less burdensome. Of a tax of about one hundred and fifty thousand dollars, granted in June, 1794, and directed to be paid into the treasury by the 1st day of April, 1795, about eleven thousand dollars were paid by the time prescribed; seventy-one thousand dollars, including the payment first mentioned, within three months; eighty-eight thousand dollars within six months; one hundred and nine thousand dollars within nine months; one hundred and thirty-one thousand dollars within twelve months; and one hundred and forty-five thousand dollars within fifteen months after the time limited. As this was a tax of ordinary magnitude, and one of the last which has been imposed, it is supposed to afford a fair illustration of the operation of the revenue system under which it was collected.

The debt of the State is estimated at two millions three hundred and fifty thousand dollars, bearing an interest of five per centum per annum, or - \$117,500

The funds out of which this interest is paid are the dividends on stock of the Union Bank held by the State, estimated at - - \$34,300

Interest on the debt due by the United States on the settlement made by the commissioners - - - 57,518

Amounting to - - - 91,818

The deficiency being - - - 25,682  
is supplied by an annual tax on polls and estates.

The annual expenses of supporting the Government of the State are estimated at about one hundred and twenty thousand dollars; consequently, the annual taxes cannot be less than one hundred and forty-five thousand dollars. (C.)

The proceeds of certain lands are by law appropriated, in the hands of commissioners, to the purchase of the debt due by the State, with the interest of debt so purchased; by the operation of this fund, about three hundred thousand dollars have been already redeemed.

It is understood that the county and corporation taxes very considerably exceed those imposed by the State.

## OF RHODE ISLAND.

The mode of assessing and collecting in this State is understood to have been essentially the same as at present, from an early period of its settlement; for, though various alterations have been made, none of them have been of a nature to affect the principles of the system.

At present, taxes are assessed on polls and on the collective mass of property owned by the inhabitants of the State, both real and personal. The only exceptions which appear, in an act passed in June, 1795, for taking a general estimate of ratable property, are household furniture, excepting plate, farming utensils, the tools of mechanics, and one-quarter part of all property at sea. The last exception is understood to have been made merely in consideration of the risk incident to commerce.

The towns are the only collection districts; they are responsible to the State treasury for the proportions of taxes assigned to them by the Legislature. These proportions are ascertained by general valuations, which are from time to time directed to be taken, when an increased population, advanced improvements, or accumulations of wealth from commercial business, or other causes, are found to have changed the relations of wealth which subsisted at the time of taking a former valuation; the three last valuations were taken in the years 1767, 1778, and 1795. (D.)

The estimate according to which the quotas of the different towns are at present determined, was taken in the following manner:

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An act was passed by the Legislature in June, 1795, directing the towns to elect committees in the month of August following, to consist of not less than three, or more than five persons; which committees were directed to call upon the inhabitants of their respective towns and to require them to render, on oath or affirmation, true and perfect accounts of all their property, real and personal, with the exceptions before mentioned.

The committees were directed, in the next place, from the lists of property exhibited by individuals, the former valuation lists of the towns, and such other information as they might be able to obtain, to make out just estimates of the whole property of their respective towns; in performing which duty they were to be under oath.

By the act of the Legislature abovementioned, a committee of ten persons was appointed, who were directed to visit all the towns in the State, and after requiring the committees of towns to appear before them with their estimates, and the lists exhibited by individuals, they were empowered, on the best information which they could obtain, to fix the quotas of the several towns, and to report a general estimate of the ratable property of the State.

It was provided that, if any person should refuse to exhibit a list of his property to the committee of the town, it should be in the power of the committee of the State to fix such a valuation as they should judge proper; according to which, the delinquent individual should be liable to two-fold taxation; a like provision was also made for assessing and taxing a town, in case of an omission to elect a town committee, or of a general omission of the inhabitants to exhibit lists of their property.

By the valuation taken in the year 1767, the ratable property of the State was found to be seven millions three hundred and seventy-one thousand one hundred and eighty-six dollars seventy-seven cents. By the valuation taken in 1778, including that of the insular towns in Newport county, which was not taken till 1783, ten millions nine hundred and seventy-seven thousand nine hundred and nine dollars sixteen cents. And by the valuation taken in 1795, fifteen millions five hundred thousand dollars. Of the valuation taken in 1767, about three-fourths of the aggregate estimate appears to have arisen upon real, and one-fourth part upon personal property. Of the valuation taken in 1778, but little more than one-sixth part was estimated for personal property. No certain data have been obtained for ascertaining the proportion in which personal property contributed to the valuation in 1795. It however appears that the increase in the estimate has been principally owing to real or supposed accumulations in the commercial towns of the State, some of which have complained of undue assessments.

According to a principle established by long usage, the poll tax is uniformly six-pence on each poll, for every thousand pounds of a tax upon the State. Assuming as data, which cannot be materially erroneous, that there are twelve thousand ratable polls in the State, and that one fourth part

of the general valuation taken, in 1795, was founded on personal property, it will follow that taxes are assessed on real and personal property and on polls, in the following proportions:

On polls by an uniform rate -	\$300
On personal property, ad valorem -	175
On real estates, ad valorem -	525

Whole amount of a supposed tax - \$1,000

But, notwithstanding the general rule is supposed to be nearly as is above stated, it is understood that the individual towns are not necessarily confined thereto. By a vote of the freemen of Providence, the poll tax has been abolished, in respect to that town, where it has been resolved that all taxes shall be raised by an assessment on estates only.

The exemptions from taxation are in favor of the estates belonging to Rhode Island College, houses dedicated to public worship, and the polls of settled ministers of the Christian religion.

The apportionment of taxes upon individuals is performed by assessors, who are annually chosen by the inhabitants of the respective towns. When a town omits to choose assessors, it becomes liable to a fine of fifty pounds, recoverable by the treasurer of the State, by an action of debt against the treasurer of the delinquent town. Notwithstanding the obligation upon towns to choose assessors annually, it has, however, been usual to authorize new appointments, whenever a tax is granted by the State.

Prior to the assessment of a tax, the inhabitants are required to exhibit, on oath or affirmation, lists or accounts of their estates. Those who omit or refuse, are assessed at the discretion of the assessors, and are, moreover, precluded from any remedy by abatement. The value of the property exhibited in the lists of individuals, is determined by the judgment of the assessors. The court of general sessions of the peace of the county may, however, relieve against excessive valuations, and may award the payment of costs out of the town treasury.

When the valuations of property are ascertained, the sum to be raised by the uniform poll tax, before described, is apportioned, and the remainder of the tax is then distributed by a poundage rate, in proportion to the lists of property possessed by individuals. The completed tax bills are then delivered to the town clerk, by whom a copy is made and certified to the treasurer of the State, with the name of the collector for the town.

Collectors are chosen by the inhabitants of towns, which are responsible for their conduct; they are authorized to proceed in collecting taxes, by warrants from the treasurer of the State, affixed to the copies of tax bills, transmitted to him by the town clerks. As a security against the delinquencies of collectors, it has become an universal practice for the towns to require sureties for their fidelity.

The collectors may distrain goods or chattels for the payment of taxes, and for want thereof may commit delinquents to prison. When goods

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and chattels are not to be found, the lands of persons living out of the limits of the State may be sold and conveyed by a collector; due notice being previously given by advertisement in the newspapers printed within the State.

When collectors were delinquent, it was formerly the practice, authorized by law, for the treasurer of the State to issue warrants of distress against their goods and chattels; and for want thereof, to commit their bodies to prison. Of late, a different rule has obtained; when the quota of a town is not paid into the treasury, by the day prescribed, a warrant is issued by the treasurer of the State, against the treasurer of the delinquent town, who may proceed in a summary manner against the delinquent collector and his sureties. All charges incident to a warrant against a town treasurer, may, in addition to the original tax, be collected of the individuals who remained delinquent at the time of issuing the said warrant. The towns are responsible for interest on the sums not paid into the State treasury by the time prescribed, which interest may be collected of the individuals in arrear.

All expenses of assessing and collecting taxes, are paid by the towns respectively; when the rule of compensation is not varied by special agreement, the assessors are entitled to one and three quarters per centum, for apportioning, and the collectors to five per centum, for collecting a tax. The actual expense of collection is various, but, in consequence of competitions for the office of collector, which have been encouraged by the towns, this expense has been reduced to three and three quarters per centum, and, in some instances, as low as two and a half per centum.

The taxes lately imposed have been moderate, and have been well collected. Of a tax for twenty thousand dollars, granted in October, 1794, payable on the first of February, 1795, two thirds were paid in three months, and the whole in nine months after it became due.

The expenses of the State Government are annually about five thousand dollars, exclusive of the expenses attending the erection of State-houses and prisons, which, for several years past, have averaged about eight thousand three hundred dollars more. The amount of country and town taxes cannot be ascertained.

The State is indebted about ninety-eight thousand dollars, for discharging which no resource is known to exist except revenue from taxation.

**OF CONNECTICUT.**

Taxes are imposed in this State according to a system which has obtained from an early period, without any radical change or alteration.

The objects specifically enumerated in the law now in force, are polls, lands, and the stock of farms, with certain exemptions; houses, carriages for the conveyance of persons, plate, clocks and watches, credits on interest, exceeding the debts due on interest by the individual creditors, excepting loans to the State and the United States; to which may be added assessments proportioned to the estimated gains or profits arising from any,

and all, lucrative professions, trades, and occupations, excepting compensations to public officers, the profits of husbandry, and common labor for hire. The proportions in which taxes were imposed on the several ratable objects, in the year 1795, will appear from the annexed document E.

The distribution, assessment, and collection, of taxes upon these objects, are performed in the following manner.

In the month of December, annually, the inhabitants of the respective towns are convened, pursuant to a permanent law, for the choice of town officers. A description of officers is then chosen, denominated *listers*; the number of these officers, in each town, is determined by the inhabitants; previously to entering on their duties, the listers are sworn to a faithful and diligent execution of their trust. In the month of July, annually, the listers, by notification at some public place, in each society of their respective towns, require the inhabitants to exhibit, on or before the tenth day of September following, lists or inventories of the ratable property by them respectively owned, on the twentieth day of August, which day is assigned by law for taking the lists of ratable property throughout the State.

Immediately after the tenth day of September, the lists or inventories of ratable property, returned by the inhabitants, are, by the listers, collected and arranged; of these, an aggregate list or statement is formed, exhibiting the quantities and ratable value of the different taxable objects, as, also, the particular sums assessed upon trades and professions. From the list of polls, the listers then, in conjunction with the civil authority and selectmen, abate or deduct the polls of persons disabled by sickness or other infirmity; it is, however, provided, that such abatements or deductions may not exceed one tenth of the number of polls borne on the list of the town; the aggregate list of the town, after the abatement of polls is made, is then returned to the General Assembly, at their annual session in October.

After the return of the aggregate list to the General Assembly, the listers meet, and enter upon a scrutiny of the lists exhibited by the individual inhabitants, which continues from time to time, as circumstances require, until the close of the year. During this period, inquiries are made respecting ratable property, which may have been omitted, and such as is discovered to have been omitted through fraud or neglect is assessed four-fold. The additions to the list, in consequence of accidental omissions, and the amounts subjected to four-fold taxation, are then arranged and reduced to a new aggregate, which is returned to the General Assembly, in May following. In case of an omission to make up and transmit to the General Assembly the aggregate list, in October, or the additions and four-fold assessments in May, together with a certificate that the listers have taken the oath prescribed by law, they become subject to a fine, and the town in which the omission happens is, moreover, liable to be doomed or assessed, at the discretion of the General Assembly.

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The amounts of ratable property, in each town, and the proportions in which it is possessed by individuals, being definitively settled for the year, by the result of the scrutiny ending on the last day of December, the listers are required by law, some time in the month of January, to make out lists or statements, containing, in alphabetical order, the names of the inhabitants, their ratable property, and the amount of the lists of each individual. In these lists or statements the inhabitants are classed according to the societies or religious corporations to which they respectively belong. When the lists are completed, they are delivered to the town clerk, or register, and form a part of the records of the town.

By means of the aggregate lists returned to the General Assembly, a general statement of the ratable property possessed in the State, and in each county and town, is annually framed; and by a reference to the offices of the town clerks, the list of any society, or individual, may at any time be known.

According to these annual lists of ratable property, all taxes are imposed, whether for the use of the State, or for the use of any county, town, or society. When a sum of money is required, a calculation is made of the rate or proportion necessary to be imposed, on the aggregate list, and by knowing the rate or proportion of the tax granted on the aggregate list, every individual can readily ascertain the sum with which he is charged.

Errors in the aggregate lists, which affect the proportions of towns, are rectified by the treasurer, on receiving satisfactory certificates from the listers, pointing out the causes of such errors. When individuals are affected by errors or overcharges, they may receive redress by applying to the listers; but, if the listers refuse relief, an appeal is allowed to a tribunal, consisting of two justices of the peace, and three selectmen of the town, who, after notifying two or more of the listers, may proceed to a final decision. All applications, by individuals, for relief against errors or overcharges, must, however, be made on, or before, the twentieth of April next, after the error or overcharge occurred.

The property of non-residents is taxed in the same manner as that of inhabitants. The exemptions from taxation are in favor of settled ministers of the Christian religion, and the President of Yale College, whose polls and their estates, lying in the society or town in which they dwell, together with all lands or buildings sequestered for schools, or other public or pious uses, are exempted.

The listers are, by law, entitled to receive, from the town treasuries, a compensation of thirteen cents upon every thousand pounds of the sums included in the lists of the respective towns; besides which, one half of all the taxes collected upon four-fold assessments accrue to their benefit.

The collectors of taxes are chosen by the towns, respectively, which are responsible for their delinquencies; in some cases, bonds, with sufficient sureties, are required, as a condition of appoint-

ment; in all cases, the selectmen have a controlling power over the conduct of collectors.

When a tax is granted by the State, the treasurer, without special direction, but as a matter of course, issues his warrants directed to the collectors, requiring each of them to collect a certain sum, which is always a poundage rate upon the lists of the several towns; of the sums expressed in the warrants, the civil authority and selectmen are, however, authorized to abate one eighth part, which is never collected, but applied to the relief of indigent or unfortunate persons; by means of this provision, the operation of a general rule of taxation is reconciled with equity, in particular cases.

There is, also, allowed annually, out of the taxes granted by the State, the sum of two dollars upon every thousand dollars of the aggregate lists of the several towns, as a partial support for public schools; this allowance, in a fiscal view, is equivalent to an additional abatement or deduction from the annual taxes.

The collectors have the usual powers of sheriffs, and may execute their warrants, by distress and sale of goods and chattels; when these are not to be found, they may attach real estate, or, for want thereof, they may commit delinquents to prison. They are required, however, to warn the inhabitants to pay their proportions, and may not proceed to make distress until after such warning, and a consequent non-compliance, nor until two months before the day assigned for paying the tax into the treasury.

When the person of a delinquent is committed to prison, the town becomes liable to the collector for the amount of the tax, which, if necessary, may be recovered of the selectmen, by a warrant from the treasurer, in favor of the collector; to charge the town, it is, however, necessary that the commitment be made within eight months after the tax became payable. The warrants of collectors run throughout the State, and may be levied wherever persons indebted for taxes can be found. If a collector die, after the year for which he was appointed be expired, his powers, while living, survive to his executors or administrators; but if the collector die during the year, it becomes the duty of the town to proceed to make a new appointment. When real estate is taken, it is necessary that the proposed time of sale should be advertised for three weeks, in a public newspaper, at least six weeks prior to the sale. Lands sold for taxes may, during twelve months after the sale, be redeemed, on payment of the purchase money, and costs, with interest, at the rate of twelve per centum per annum. Creditors of persons whose lands have been sold, may avail themselves of the right of redemption; in which case, the lands remain pledged, in nature of a mortgage, until the sums advanced are refunded, with twelve per cent. interest. All taxes due by an individual remain as a lien upon his real estate, for one year after they become payable.

The powers of collectors terminate at the expiration of three years from the dates of their respective warrants, except in respect to persons



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who may have removed from the State, with their property. The powers of executors and administrators of collectors continue for two years after being capacitated as such, in respect to taxes which were demandable by the collector while living.

When a collector is delinquent for more than four months after the time limited for a settlement with the treasurer, a warrant of distress is issued against his person and estate, returnable in sixty days. If the collector or sufficient estate are not to be found, or if he be committed to prison, and the tax remain unpaid, a second warrant is issued against the estates of the selectmen; if no, or sufficient, estates of the selectmen can be found, and a return is accordingly made, a third warrant is issued, against the goods and chattels of the inhabitants of the delinquent town, indiscriminately.

The issuing of the two warrants first described, is frequently found, in practice, to be attended with no coercive effect, except that arising from a sense of the accumulated expenses, which must be finally borne by the town on issuing the third warrant. This circuitous process was, therefore, inefficacious, when, as during and for some time subsequent to the late war, taxes were really burdensome.

When the goods and chattels of selectmen or inhabitants are taken by distress, a warrant is issued by a justice of the peace, directing an appraisalment, for which, with reasonable costs and damages, the town is made responsible, and for the reimbursement of which a tax may be assessed by the selectmen.

The compensations of collectors are a commission of two and one half per centum on the sums collected and paid over, besides travelling fees when they settle their accounts. These allowances are paid by the State; when taxes are collected by distress, extra fees are allowed, which are paid by the delinquents.

The moderate taxes lately imposed by the State have been well collected. Of a tax of one penny on the pound, or about twenty-three thousand dollars, made payable on the first day of December, 1795, nearly one-half was paid into the Treasury in three months, and almost the whole of the remainder in six months after it became due. The taxes granted by the people themselves, as members of legal corporations, such as cities, towns, ecclesiastical and school societies, are supposed to exceed, on an average, ten times the sums lately granted by the State.

The ordinary expense of supporting Government has been about forty thousand dollars per annum; but, in consequence of a temporary addition to the compensations and fees, heretofore established, the present expense may be estimated at about fifty thousand dollars per annum.

After liquidating the debt incurred during the late war, there will belong to the State about three hundred and fifty thousand dollars of the balance which was found due on the settlement of the accounts of the late war.

## OF NEW YORK.

No general or direct tax has been levied by this State since the year 1788; no objects of taxation are defined in the laws, nor any principles of valuation prescribed. The amount of a tax upon the State being declared, the Legislature determines the quotas to be paid by counties, the supervisors of counties determine the quotas of towns, which last are apportioned to individuals by assessors; no provision has been made for requiring a disclosure of the property owned by individuals; of course, all assessments by the Legislature, by supervisors, and assessors, are determined by a discretionary estimate of the collective and relative wealth of corporations and individuals.

The process by which taxes are assessed and collected, and the manner in which the responsibility of officers and collection districts are secured, are, however, to be explained.

In the month of April annually, the freeholders and inhabitants of the several towns elect one supervisor, not less than three, nor more than seven assessors, and one or more collectors of taxes. Vacancies occasioned by deaths, removals, or any other cause, may be filled by new elections, to continue during the remainder of the year; when towns neglect to elect, and continue in office supervisors and assessors, they may be appointed by three justices of peace of the county. Persons refusing to serve in the offices to which they may have been elected or appointed, are subject to a fine. When the assessors have been qualified by taking an oath faithfully to discharge their trusts, it becomes their duty to meet for the purpose of estimating the value of all real and personal estates in their respective towns; in the first place a list is made of the names of all resident freeholders and inhabitants, and of all persons living elsewhere, possessed of any property lying in the town: against the name of each person, the assessors place such sums as they judge to be the true value of real and personal estates owned by individuals, distinguishing the value of real from that of personal estates; these lists, with the assessments to each person, signed by a majority of the assessors, are then delivered to the supervisors of the county, or their clerk, on or before the last Tuesday of May, annually. If the assessors omit to perform their duty, they become severally liable to a fine of twenty-five pounds, recoverable for the use of the county.

On the day last mentioned, the supervisors of the respective counties meet at the court-house of each county, and afterwards at such times and places as they can agree. When a tax has been granted by the State, the quota of the county is by them apportioned to the several towns, according to their best discretion; to which is added a sum sufficient to defray the expenses of the county during the year; and a further sum for the maintenance of the poor of each town. The sums thus assigned to each town are then apportioned by a poundage rate to individuals, according to their proportions, as exhibited in the lists transmitted by the assessors.

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The lists, with the sums payable by individuals, are then transmitted to the collectors of the several towns, with the warrants of the supervisors of the county annexed. Of the sums first collected, the amount of the assessments for the maintenance of the poor are paid to the overseers of the poor in each town; the remainder, including the sum assessed for the use of the State, is made payable to the treasurer of the county.

The treasurers of counties are appointed by the supervisors, and are required to give bonds, with sufficient sureties, for the faithful discharge of their trusts. The collectors of towns are responsible to the county treasurers, which last are responsible to the supervisors and to the treasurer of the State.

The warrants of the supervisors to collectors authorize them to proceed by distress and sale of the goods and chattels of the persons indebted for taxes; when goods and chattels are not to be found, the taxes accruing upon real estates may be collected by a sale at public auction of a sufficient quantity of the timber, wood, or grass, growing thereon; a notice of such intended sale, for six weeks, and an advertisement for six days, at two or more public places in the town where the estate lies, are however required.

When a collector is delinquent, the county treasurer is required to issue his warrant, returnable in thirty days, directed to the sheriff of the proper county, commanding him to levy the sum in arrear of the lands and tenements, or goods and chattels of the collector, and for want thereof, to confine his person in prison. Of the sums assigned to collectors, they may however discharge themselves, in all cases where no goods or chattels of individuals are to be found whereon to levy, by rendering an account of deficiencies to the county treasurer, on oath, prior to the time assigned for the settlement of the tax. If the collector omits to exonerate himself by rendering an account of deficiencies by the time prescribed, he becomes liable for the whole sum assigned to him for collection; such accounts of deficiencies as are rendered by the collectors, are, by the county treasurers, laid before the supervisors at their next meeting.

When taxes have been granted by the State, the county treasurers are required, annually, before the month of March, to pay the sums by them received, to the treasurer of the State, at the same time exhibiting accounts on oath of all warrants issued against delinquent collectors, expressing the amount of each; where a county treasurer has omitted to pay over the sums by him received, within the time prescribed, or to exhibit, on oath, an account as above-mentioned, or has neglected to issue his warrants against delinquent collectors, it becomes the duty of the treasurer of the State to proceed against the county treasurer, in the manner before described, with respect to delinquent collectors.

It is the duty of the supervisors of counties, at their annual meetings, previously to ascertaining and assessing the county tax for the year, to examine the accounts of deficiencies exhibited by

the collectors to the county treasurers, during the former year; when, in the judgment of the supervisors, the taxes are collectible, notwithstanding the return of the collectors, they are authorized to issue new warrants for collecting the same, under the same formalities and conditions as though a new tax had been assessed; when the deficiencies are found to proceed from insolvencies, or want of goods, or other property, whereon a levy might have been made, or from the insolvency of a collector, the deficiencies are added to the quota of the town in which they arose, to be collected with the new tax. In cases where towns are charged with deficiencies, the first payments thereafter made are applied by the county treasurers on account thereof.

The compensations of the supervisors and their clerks, as also of assessors, are determined by the supervisors, and included with the annual taxes upon the county.

The collectors are allowed to retain, from the sums collected by them, a commission of five per centum; the fees of sheriffs for levying moneys of delinquent collectors are two and one-half per centum; the compensation of the county treasurers is a commission of one and three quarters per centum upon the sums received and paid over; the whole expense of assessing and collecting a tax has been estimated at from fifteen to twenty per centum of the sums collected from the people.

The last State tax, granted in 1788, was for sixty thousand dollars, of which three-fourths was paid into the treasury in one year, the residue was not entirely paid in two years. The expenses of supporting civil Government are annually about seventy-five thousand dollars; the annual grants to the university, college, schools, hospital, and for contingencies, somewhat exceed this amount. The outstanding debts of the State are about two hundred and twenty-five thousand dollars, a principal part of which consists of bills of credit issued since the late war. The credits and funds of the State are ample, and their product sufficient to supersede the necessity of taxation except for county and other local purposes.

## OF NEW JERSEY.

The objects of taxation enumerated in the laws of this State, are lands, whether improved or unimproved; houses, with lots adjoining, not exceeding ten acres; horses and neat cattle, furnaces, forges and mills of several kinds; tan-yards, ferries, fisheries, vessels, carriages for the conveyance of persons, including sleighs; personal taxes on shop-keepers, single men who keep horses, single men who do not keep horses, and on slaves.

Each of the taxable objects before enumerated, is, by the Legislature, assessed from time to time, at a certain value; the assessments on lands, and on houses and lots, are graduated according to an equitable scale, with reference to the relative fertility and local advantages or disadvantages of the several counties. The quantities of taxable property, the rates at which they were assessed in the year 1794, and the quotas of the several

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counties in a tax of thirty thousand pounds, appear in an annexed document (F.)

It appears that the quotas of counties are determined by their lists of ratable property, according to the valuations from time to time made by the Legislature; the quotas of townships and individuals are assessed pursuant to the following regulations:

At the annual town meetings there are chosen within each township, ward, and precinct, two freeholders, three commissioners of appeals, one assessor, and one collector of taxes. In case of neglect in any township to make elections of assessors and collectors, or of the disability of the persons chosen, two justices of the peace of the county may appoint a town meeting, at which elections may be made by a plurality of the voices present; in case of a refusal or neglect to make elections in this mode, two justices of the peace may make the necessary appointments.

The assessors, after being qualified, by taking an oath or affirmation faithfully to discharge their trusts, are required, between the twentieth day of July and the twentieth day of August in each year, to apply to the inhabitants of their several townships for an account of all their property, real and personal, then ratable by law; of the property disclosed, correct and particular lists are taken in writing by the assessors.

Such of the inhabitants as refuse to disclose a true state of their taxable estates, are liable to be assessed, at the discretion of the assessors, double the amount of the sums for which they would otherwise be liable in the opinion of the assessors.

In making assessments, lands, houses, and lots, are estimated *ad valorem*, not exceeding certain rates, which are prescribed by law; horses and neat cattle are assessed uniformly throughout the State; the assessments on all other objects of taxation are specific, not exceeding certain prescribed rates; the objects of specific taxation are styled *certainities*, of which particular and distinct accounts are taken.

Four months before a tax is made payable into the treasury, the assessors of the several townships meet at the court-house of the county, with the lists of ratable property collected in the several townships. After the lists have been arranged, and the quantities of each description of taxable objects have been ascertained, a calculation is made of the proportion of the tax which can be raised on the certainities, or objects of specific taxation; the remainder is then apportioned to the several townships, at the discretion of a majority of the assessors present; so, however, that the rates of valuation, prescribed by law, be not exceeded in assessing the quota of any township: when the quotas of the townships have been ascertained, an abstract is formed of all the certainities and other property subject to taxation in the county, distinguishing the amount in each township, which, being signed by the assessors, is delivered to the collector of the county.

Within ten days after the quotas of the townships are settled, the assessors are required to

make out duplicates of the assessments upon individuals, containing an account of the certainities, the sums estimated for other property, with the taxes assigned to each person, one of which duplicates is delivered to the collector of the proper township, ward, or precinct, and the other to the collector of the county, who is required to lay the duplicates, being the assessments on townships and persons, with the abstract thereof for the county, before the General Assembly, in October, annually.

Though, in assigning the proportions of individuals, the assessors appear to be confined to the objects of taxation prescribed by law, and are not allowed to exceed certain rates of valuation, of which the limits are designated, yet, as within these limits a wide latitude of discretion may be exercised, provision has been made for an appeal where the assessments are deemed excessive. With a view to this subject, the constitution has prescribed that the townships shall annually elect three or more judicious freeholders to hear and finally determine all appeals relative to unjust assessments, who are directed to sit at suitable times, to be by them appointed, and made known to the people by advertisements.

In conformity with this provision, the law directs that, within four days after the duplicate assessment, or tax bill, is received by the township collector, he shall, by advertisement, give public notice that a tax has become payable, therein mentioning the time when a return of delinquents will be made in manner hereafter mentioned, and the time when the meeting of the commissioners of appeals is to be holden. In case the commissioners of appeals see fit to allow a deduction from any assessment, a transcript of their decision becomes a voucher in favor of the collector to whom it is directed.

The township collectors are responsible to the collectors of counties, who are appointed by the justices and freeholders of the counties respectively. The county collectors are responsible to the treasurer of the State.

Within twenty-five days after receiving the duplicate assessments, the collectors of townships are required to demand the taxes due by individuals, either by personal application, or by notice at their respective dwellings, mentioning, at the same time, the session of the commissioners' appeal. In case of non-payment, until within one month and fifteen days before the time prescribed for payment into the treasury, it becomes the duty of the collector to make a return, on oath, to some justice of the peace of the county, therein specifying the names of the delinquents and the sums due from them, respectively, for which return, the justice of the peace may be required to grant his receipt or acknowledgment. Prior to the time prescribed for settlement with the county collector, the collectors of townships must pay over the sums by them collected; in which case, they cease to be chargeable for such assessments as have been returned to a justice of the peace, in manner before mentioned. When a township collector omits to make a return of delinquents,

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or pay over the sums by him collected, he becomes liable to a fine of twelve pounds, collectable by the county collector for the use of the State.

Within three days after a return of delinquents to a justice of peace, it becomes his duty to issue warrants, directed to some constable of the county, requiring him to levy the sums in arrear with costs, by distress and sale of the goods and chattels of the delinquents, or for want thereof, to commit them to prison; the warrants moreover require the constable to pay the taxes so collected by distress, to the township collector, within thirty days, and to make a special return to the justice of the peace of the sums collected, of the sums not collectable, and generally, of the manner in which the warrants have been executed. If a justice of the peace refuse to perform the duties before mentioned, he becomes subject to a fine of twelve pounds, recoverable with costs, for the use of the State, by the county collector. If a constable omit to execute the warrants of the justice of the peace, he becomes liable to a like fine, for the use of the county and the township collector jointly; as also, for all the taxes entrusted to him for collection, recoverable by distress, on a summary process, before any one of the judges of the court of common pleas for the county.

On the receipt of moneys from any constable, the township collector is required to pay the same to the county collector, and to account for all outstanding deficiencies. If the township collector omits his duty in this respect for ten days, it becomes the duty of the county collector to apply to one of the judges of the court of common pleas for the county, who is required to issue a summons to the township collector, and thereupon to hear and determine the cause, in a summary manner. In such case, the township collector is held responsible for all the taxes entrusted to him for collection, except such as may appear uncollected by the return of the constable, on the warrant of distress, issued by a justice of the peace. For the remainder, with any fines received, and interest thereon, from the time payment ought to have been made, judgment may be given, recoverable with costs, by a warrant of distress, directed to the sheriff of the county.

The collectors of counties are required to pay over to the treasurer of the State all assessments and forfeitures by them received from township collectors, for which the receipts of the treasurer operate as a discharge, after having been entered in the office of the State auditor. When a county collector omits or refuses to pay over such assessments and forfeitures, and to account for the deficiencies remaining uncollected, for twenty days after the time prescribed for a settlement of the tax, it becomes the duty of the treasurer to report the defaulter to a Judge of the Supreme Court, who is required to institute a summary inquiry. The county collectors, in this case, are held responsible for the quotas assessed upon the counties, except so far as they can exonerate themselves by showing that the sums remain uncollected, in the hands of township collectors or con-

stables, in respect to whom, the requirements of law, before mentioned, have been enforced. For such sums as the county collectors are found delinquent, on the principles above stated, the judge of the superior court may issue a warrant of distress, directed to any sheriff of the State. In addition to the unpaid taxes before mentioned, a delinquent county collector is liable to pay a fine of ten pounds, for the use of the State.

If a sheriff, to whom a warrant of distress, against a county collector, is directed, neglect or refuse to execute the same, or omit to pay to the treasurer the sums collected, within thirty days after receiving the warrant, he becomes liable to forfeit double the sum therein expressed, collectable by the treasurer, agreeably to the process prescribed in respect to delinquent county collectors.

The counties are responsible to the State for all delinquencies of county collectors; and the townships are, in like manner, responsible to the counties, for the delinquencies of their collectors and constables, respectively. When a county collector is found to be delinquent, the sum due by him is, by the treasurer, added to the quota of the county, in the next tax. If the assessors omit or refuse to assess the deficiency, or any tax granted by the State, they severally forfeit twelve pounds, recoverable by the overseers, for the use of the poor.

The county collectors are required to attend the meetings of the assessors in the several counties, and to lay before them accurate accounts of the deficiencies, in the several townships, precincts, and wards; the amount of which are required to be re-assessed with the future taxes of the townships, precincts, and wards, in which such deficiencies arose.

Tenants, or persons residing on, or having the care of lands or tenements, are responsible for the taxes assessed thereon, as also, their goods and chattels. The amount of such taxes may, however, be deducted out of future rent, or recovered of the landlord; but in such manner, as not to affect any subsisting contract or agreement.

In default of payment of the taxes assessed on unimproved or untenanted lands, the owners of which do not reside in the townships where such lands are situated, warrants may be issued by a justice of the peace of the county, authorizing a distress and sale of timber, wood, herbage, or other saleable property, found on the premises.

Township collectors and constables are responsible to the chosen freeholders of their respective townships for all moneys received by them, or for which they may be accountable, above the sums paid to the county collectors.

The general rule of compensation for assessors, has been a commission of one and three-quarters per centum, upon the sums assessed, with a like commission to the collectors of townships, both of which compensations were included in the assessment of taxes. By an act, passed in the year 1794, for raising fifteen thousand pounds, the assessors were allowed fourpence for assessing the tax of each person, and the collectors, a like sum

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for each collection. It is not known whether this has operated as an increase or reduction of the compensation before established. The commissioners of appeals are allowed one dollar per diem for their services. In addition to each tax, constables are allowed to collect two shillings and sixpence for each distress, and sixpence for each name mentioned in the warrant of a justice of the peace, both of which sums are payable by the delinquents. County collectors are allowed one penny in the pound, of the sums received of township collectors and paid over to the treasurer, besides sixpence per mile, for travelling to settle their accounts.

Of a tax of fifteen thousand pounds, granted in December, 1794, payable into the treasury on the last day of December, 1795, the whole, except a trifling balance from one county, was paid before and during the month of May, 1796.

The outstanding debt of the State amounted, in April last, to forty-five thousand pounds, or one hundred and twenty thousand dollars, for the discharge of which, in four equal annual payments, appropriations have been made; the payment of the first instalment is supposed to have been, before this time, completed. The arrears of certain taxes, funds belonging to the treasury, and the proceeds of an annual tax of forty thousand dollars, are represented as sufficient to liberate the State from debt, within the time proposed.

The expenses of supporting the State Government and contingent charges, are annually about twenty-seven thousand dollars; the amount of county and other taxes is not known.

## OF PENNSYLVANIA.

In the year 1785, an act was passed providing a revenue for funding and paying the interest of debts of the State, and also, the State quota of the interest accruing on the debts of the United States. In aid of other revenues which were then appropriated, an annual tax of seventy-six thousand nine hundred and forty-five pounds seventeen shillings and sixpence was directed to be assessed and collected on persons and real and personal estate. This tax was continued from 1785 to 1789, inclusively, since which time no general tax has been imposed.

The tax above mentioned was apportioned to the several counties by the Legislature; the quotas of townships were determined by county commissioners, and assessed upon individuals by township assessors.

The objects of taxation were, the time of servitude of all bound servants above fourteen years of age; negro and mulatto slaves, above the age of twelve years; horses and horned cattle, above three years old; wrought plate; travelling or pleasure carriages; lands generally, houses, ground rents, mills of all kinds, furnaces, forges, bloomeries, distilleries, sugar-houses, malt-houses, breweries, tan yards, and ferries; all of which were made taxable *ad valorem*.

Personal taxes, not exceeding thirty shillings, nor less than ten shillings, were assessed upon single freemen above twenty-one years of age,

who had been free from apprenticeship nine months; all offices and posts of profit, trades, occupations, and professions, (ministers of the Gospel, mechanics, manufacturers, and school-masters excepted,) were rated at the discretion of the assessors, with reference to their respective profits.

By a proviso to the act, which still remains in force, the lands granted to any officers or soldiers of the line of the State, for their services, were declared to be exempted from taxation, during the lives of the grantees, respectively, unless the same should be transferred or alienated.

It would be difficult to ascertain the precise degree of punctuality with which these taxes have been collected; the delays are, however, known to have been considerable; on account of arrearages of taxes, it appears that fourteen thousand five hundred and sixty-five dollars were received in the year 1795.

The system of taxation at present in force is contained in an act passed in April, 1795, to regulate the mode of assessing and collecting county rates and levies.

The officers for assessing taxes, are county commissioners and township assessors; three commissioners are elected by the people, in each county, for three years; their offices are annually vacated in succession, one commissioner being elected in every year.

Every three years, commencing with October, 1795, the freemen of every ward, township, or district, in the city or county of Philadelphia, and in the other counties, respectively, elect one assessor, and two assistant assessors, for the purpose of making triennial assessments of taxable property; in years other than those in which the triennial assessments are made, only one assessor is elected.

The assessors and assistant assessors are required, every three years, to state and return to the commissioners of their respective counties, within six weeks from the day of their election, a list, setting forth the names and places of residence, if known, of the owners of all the lands occupied and inhabited; of all unseated lands, and of all the houses and lots of ground, in the wards, townships, or districts, to which they belong; with a description of all the buildings, erections, and improvements, appertaining to the same; the amount of all ground rents charged thereon; and also, a list of the mechanics or tradesmen, tavern-keepers, shop-keepers, persons retailing goods, wares, or merchandise, brokers, bankers, merchants, lawyers, and physicians, freemen who do not follow any profession, occupation, or calling, and persons of professions or occupations not above described; persons held as slaves, under forty-five years of age; horses and horned cattle, above four years old, with a just and faithful valuation of the estate and interest of each of the owners respectively, in the real and personal taxable property before mentioned.

In every year in which the triennial assessments of property are made, the county commissioners are required to meet on the first Tuesday



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in January, to examine and compare the returns made to them by the assessors and assistant assessors, with full power to revise, alter, and adjust, the valuations in such returns; provided they do not change or vary the relative valuations of property in the same township, ward, or district. The proportional assessments upon individuals, thus equalized by the commissioners, in respect to counties, constitute a general rule or criterion, by which taxes on property are regulated for three years ensuing.

The amount of each county tax is determined by the county commissioners, under the limitation, however, that not more than one per centum can, at any time, be raised on the valuation of lands. When the commissioners deem it necessary to levy a tax equal to one per centum, upon the value of property, as by them adjusted, they are directed to order the following taxes on persons and professions to be collected. From every freeman of no profession or calling, not more than ten dollars, nor less than fifty cents; from every mechanic or tradesman, not more than two dollars, nor less than thirty cents; from every tavern-keeper, shop-keeper, or other person, retailing goods, wares, or merchandise, not more than five dollars, nor less than fifty cents; from every broker, banker, merchant, lawyer, or physician, not more than ten dollars, nor less than one dollar; from persons of professions or occupations, not before described, not more than eight dollars, nor less than twenty-five cents; and from the holder of any person held as a slave, one dollar for every such slave. Whenever the tax on real property is below one per centum of the valuation, the taxes on occupations, professions, and personal property, are directed to be proportionally reduced; no article of property can be assessed which is not enumerated in the law.

When the commissioners have declared the amount of a tax, and the proportions to be assessed on real estates, and on persons and occupations, they issue warrants to the assessors, requiring them to take an account of all persons and effects subject to the tax, and to make returns, in thirty days, of the names and sums, with which, in their judgment, each person ought to be charged; distinguishing the sums assessed for real property from those assessed for personal estates, professions, or occupations; the assessors are, moreover, required to notify each individual of the amount wherewith he is charged, and of the time and place, when and where, the county commissioners will meet, to hear and decide on appeals.

The county commissioners are authorized, on the appeals of individuals, to alter the assessments on persons or professions, or to abate them entirely, in cases where they judge the appellants unable to discharge the same; it is declared, however, that the commissioners shall not vary the assessments on real property, except where lands have been divided, or where houses or buildings, valued in the triennial assessments, have been destroyed or damaged by accidents; in which cases alone, the commissioners may apportion the

assessments between the owners of the property so divided, or may make abatements in proportion to the damages sustained.

The tenant in possession of lands or tenements, belonging to an owner residing in a township, ward, or district, other than that in which the lands or tenements are situated, is, jointly with the owner, liable for the taxes thereon, and his goods or chattels may be distrained therefor; but the tenant may retain the sums paid, out of the rents due or to become due, or may recover the same, with costs, by action of debt against his landlord, unless prevented by the conditions of some prior contract.

The deputy surveyors of counties or districts are required, on the application of the county commissioners, to make returns of all lands surveyed, and of all warrants or orders of survey, to them directed and not executed, therein describing the number of acres in each survey, the names of the original warrantees, the waters on which situated, the lands contiguous thereto, and the townships where the same lie; all unseated lands are directed to be taxed, returned, advertised, or sold, in the name of the original warrantee, until notice has been given to the commissioners that the said lands have been alienated to some other person.

Within three months after a tax has been laid on unseated lands, the commissioners are directed to transmit a transcript of the assessor's return, and of the tax imposed, to the sheriff of the county, in case the owner resides therein; or if the owner does not reside in the county, but has previously filed with the commissioners an account of his abode and occupation, then to the sheriff of the county in which such owner is resident; in either of which cases, it is made the duty of the sheriff to serve a copy of such transcript on the owner, or to leave a copy thereof at his usual place of abode.

When the owner of unseated lands cannot be found, and any tax has remained unpaid for three years after the assessment thereof, the county commissioners having first advertised the same in seven different public places, within the county, are directed to proceed, on the first Tuesday of August next, after the expiration of the three years, to sell so much of the said lands as may be necessary to satisfy the taxes remaining unpaid, with interest, at the rate of twelve per centum per annum, from the time the taxes became due. Persons who occupy lands which were unseated previously to such occupancy, are liable for taxes in the same manner as though they were original owners; as also purchasers of unseated lands, who shall have recorded their deeds, or in any other manner acquired titles to the same, and may be proceeded against in like manner as though they were original owners.

The county treasurers, and collectors for townships, are appointed by the county commissioners; the collectors are accountable to the county treasurers for the taxes entrusted to them for collection, except for taxes on unseated lands, and may



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distrain and sell the property of delinquent individuals. When collectors are delinquent, their goods and property may be distrained and sold by the county treasurers.

The county commissioners, assessors, assistant assessors, and county treasurers, are severally required, before entering on the duties of their offices, to take and subscribe an oath or affirmation, faithfully and impartially to execute the duties of their respective offices.

When townships omit to elect assessors or assistant assessors, or when vacancies happen from any cause, the county commissioners may proceed to make the necessary appointments.

The compensation allowed to county commissioners is one dollar and one-third for each day they are employed, and to the assessors, one dollar. Upon an average, the expense of assessing county taxes through the State, may be estimated at ten thousand dollars per annum. The commission allowed to collectors is generally about five per centum on the amount of the taxes; the county treasurers are allowed one dollar upon each hundred pounds received and paid by them, respectively.

The townships are responsible to the counties, and the counties are, in like manner, responsible to the State, for the amount of all assessments. No State tax having been laid for several years, it has been found impossible to collect an account of the value of taxable property in the several counties.

The annual expenses of maintaining Government may be estimated at one hundred and thirty thousand dollars; the revenues of the State exceed this amount; of course, there is a probability that the State will continue to be exempted from the necessity of taxation, except for county purposes.

## OF DELAWARE.

Taxes have been hitherto collected on the estimated annual income of the inhabitants of this State, without reference to specific objects.

For about twenty years past, the quotas of the counties, in a general tax, have been uniform; every tax has been divided into twenty-one parts, of which eight parts have been assigned to the county of Newcastle, seven to the county of Kent, and six to the county of Sussex.

The counties are divided into hundreds, in each of which an assessor is annually chosen on the 15th of September. After their election, they are furnished with lists of all taxable persons by the constables of the hundreds; to these lists the assessors, in a general meeting for the county, affix estimates of the supposed income of each inhabitant, according to their best discretion, subject only to the following restrictions: 1st. That unsettled tracts of land, persons under twenty-one years of age, and persons who have not been six months free from servitude or apprenticeship, are to be exempted. 2d. That assessments upon poor persons having a charge of children are to be assessed with reference to this expense, but in no case less than eight pounds. 3d. That single

men, having no visible property, are to be assessed not less than twelve nor more than twenty-four pounds.

It appears to have been a rule established by the assessors, and confirmed by long usage, to assess all persons at one-fifth part of their annual income; no account of the general amount of income upon which taxes have at any time been imposed has been obtained.

When the assessors have completed their assessments, lists of their proceedings are published in the several hundreds, with notice of the time appointed for holding the levy court and court of appeals for the county.

The commissioners of the levy court and court of appeals are elected for three years by the people of the respective counties; one-third part of the court is renewed annually; they are empowered to hear and decide on all appeals respecting erroneous or excessive assessments, for which purpose they may require the attendance of all necessary witnesses.

Of late years, the collectors of State taxes have been appointed by the treasurer, who is responsible for all losses occasioned by their delinquencies, or the insufficiency of their sureties; with the bonds of collectors, powers of attorney, for obtaining judgment, are required.

The collectors of taxes are allowed a commission of seven and a half per centum on their collections; the commissioners of the levy court and court of appeals and assessors receive one dollar and one-third per diem during the time they are employed.

It does not appear that the State is burdened with debt; the expenditures from the treasury during the year 1795 amounted nearly to seventeen thousand dollars; the receipts of the treasury exceeded twenty thousand dollars, including the proceeds of certain sales of vacant lands, and taxes granted before and during the year 1794. No certain information has been obtained respecting the ordinary expense of supporting Government, or the degree of energy with which collections have been enforced.

To remedy the inconveniences and inequality which have been experienced from arbitrary assessments, an act has been passed during the present year providing for the valuation of real and personal estates. Though the new system has not yet been reduced to practice, an exposition of its principles has been deemed necessary.

It has been declared that all real and personal property shall be taxed, except property belonging to the United States, to the State, or to any county, religious society, college, county school, or corporation for charitable purposes, provisions for a family, tools and implements of a trade or profession, household furniture, (plate excepted,) the produce of land, apparel, money, bonds and securities, imported merchandise, and such carriages as are already taxed; provision is however made for ascertaining the stock of merchants, traders, mechanics, and manufacturers, for the purpose of regulating assessments upon such persons, proportioned to their gains and profits.

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The Governor is empowered to constitute a board of commissioners in each county, to consist of six persons, who are to remain in office for three years. One-third part of the commissioners are to be appointed annually; no person may receive two successive appointments.

Assessors, appointed as formerly, are required to take an accurate account of the lands in their respective hundreds, specifying the names of their owners, what part is improved or unimproved, with the buildings and improvements thereon, and the value of each tract, in ready money. The assessors are also to ascertain the number of lots and houses in cities, boroughs, and villages, their value, and the rents annually paid.

Real property, and the rents arising therefrom, are to be estimated in the following manner:

Ground rents, at one hundred pounds for every eight pounds of rent. Lands subject to ground rent, according to the actual value, after deducting one hundred pounds for every eight pounds rent; rents of houses and lots in cities, towns, and villages, at one hundred pounds for every twelve pounds of rent reserved; houses and lots of the above description, at the true value, after deducting at the rate of one hundred pounds for every twelve pounds of the rent annually secured.

Certain articles of personal property are to be valued as follows:

Male and female slaves, from eight to fourteen years of age, not less than ten nor more than forty pounds.

Male slaves from fourteen to forty-five years of age, any sum above twenty and not exceeding seventy pounds; female slaves, over fourteen and not exceeding thirty-six years of age, any sum above fifteen and not exceeding thirty-five pounds; male and female slaves under eight years of age, male slaves above the age of forty-five years, and female slaves above the age of thirty-six years, at rates proportioned to those before mentioned. Male slaves who are tradesmen are to be assessed according to the value of their labor. Plate is to be assessed at eight shillings and four pence per ounce; all other articles of personal property, not specially exempted, are to be estimated according to their value in ready money, at the discretion of the assessors.

Every free man, above twenty-one years of age, in addition to the assessment upon his property, is chargeable with a personal assessment, not exceeding two hundred nor less than fifty pounds, subject to abatement in whole or in part, at the discretion of the levy court and court of appeals. Provision is made for requiring a disclosure of the taxable property possessed by individuals; persons who omit to make returns when required are subject to a penalty, and may be assessed at discretion.

The assessors, in performing the duties before mentioned, are subject to the control and direction of the county commissioners; when the valuations or assessments have been completed, they are to be published in each hundred; after which, the commissioners are to hear and determine the complaints of individuals, subject, however, to the

final decision of the levy court and court of appeals for the county.

It will be seen that, by the new system, taxes are to be imposed upon the mass of property, real and personal; and that certain limits are assigned to the powers of the assessors, although a wide field will still remain for the exercise of discretion.

## OF MARYLAND.

All property is, in this State, subject to taxation, except property belonging to the State or the United States; houses for public worship, burying grounds, or property belonging to any county, college, or county school; the crop and produce of lands in the hands of the person whose lands produced the same; provisions necessary for the use and consumption of persons and families for the year; plantation utensils; the working tools of mechanics and manufacturers, actually and constantly employed in their respective occupations; wearing apparel; goods, wares, and merchandise imported; home made manufactures in the hands of manufacturers; stills and ready money.

Taxes are, therefore, imposed on the mass of property in general, in conformity to an article in the Declaration of Rights, agreed to by the State Convention in November, 1776, which asserts, "That the levying of taxes by the poll is grievous and oppressive, and ought to be abolished; that paupers ought not to be assessed for the support of Government, but that every other person ought to contribute his proportion of the public taxes for the support of Government, according to his actual worth in real or personal property."

The following specific taxes are collected, viz: Of every attorney at law, for admission to the bar of each county court, three pounds, and a like sum, annually, during his continuance of practice. On licenses to retail spirituous liquors, six pounds; on licenses to keep taverns, three pounds; on licenses for marriage, twelve shillings and six pence. There are, moreover, certain taxes collected on process issuing from the county courts; on orders issued by the judge of the land office; or final adjudications, on caveats, and on proceedings and seals in the court of chancery.

The produce of these taxes, with the incidental revenue accruing from fines and forfeitures, and from amercements on persons failing in their suits at law, and the interest accruing on funds belonging to the State, have been found sufficient to supersede the necessity of any general State tax, since the year 1786. County taxes are assessed and collected pursuant to two acts passed in 1785 and 1792, prescribing rules for ascertaining the value of property; from the last mentioned acts, and the act by which the tax was granted in 1786, the following is inferred to be the mode of assessment and collection in this State:

The lands in each county have received an average valuation by the Legislature, at various rates, chiefly between thirty-three shillings and nine pence and twenty-two shillings and three pence, but in one instance as low as four shillings by the acre. Slaves, from eight to fourteen years of age, are valued at fifteen pounds; male slaves,

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from fourteen to forty-five years of age, at forty-five pounds; female slaves, from fourteen to thirty-six years of age, at thirty pounds; male and female slaves, under eight years of age, male slaves above forty-five years of age, female slaves above thirty-six years of age, and slaves who are tradesmen, are directed to be valued by assessors, in proportion to the rates above mentioned; when slaves are infirm, the assessors may allow a reasonable abatement. Silver plate is valued by law at eight shillings and four pence per ounce.

In estimating the value of ground rents in towns, eight pounds rent is considered as an equivalent to a capital of one hundred pounds; of the rents of houses in towns, sixteen pounds are estimated as equivalent to one hundred pounds; in respect to limited estates carved out of estates in fee simple, it is prescribed as a general rule that a right of possession for fifteen years, without payment of rent, is equivalent to one-half of the value of the fee simple. In all cases, estates and property are estimated at their full value in money in the first instance; after which, a computation is made of the value of any particular estates or interest arising therefrom, in order to a just apportionment between the parties; where the law has not prescribed a rule of valuation, assessments are made at discretion.

When a tax is to be granted, five persons in each county and in Baltimore town, are named by the Legislature, in the supply bill, as commissioners of the tax; the commissioners are sworn to a faithful and impartial discharge of their duty; they meet on a fixed day, at the usual place for holding the county courts, and, after appointing their clerks, they proceed to divide their counties into convenient districts; to appoint an assessor for each, who must be a person worth two hundred pounds; to instruct the assessors in their duty, and to prescribe a time when they are to appear with written returns of their several valuations of property.

The assessors are directed to inform themselves, by all lawful ways and means, of all real and personal property in their districts, and for this purpose they may require of all persons owning or having the care of slaves an account of them, under the penalty of paying a double tax for every slave omitted, or whose age is wilfully misrepresented in the account. Every person is also bound to give, upon the assessors' requisition, a true account of all other property, real and personal, belonging to him, or under his care and management, or simply in his possession, under the penalty of paying a double assessment, in the case of refusal to give in such account, or where a partial one is rendered, of forfeiting the value of the property omitted. In respect to property concealed or omitted in the accounts of individuals, the assessors affix a discretionary valuation.

In ascertaining the quantities of lands, the commissioners, and, under them, the assessors, are governed by former valuation lists, lists of alienations received from the clerks of courts, and by information which may be required of the proprietors on oath; this last security is, however, rarely

resorted to in any instance. When the quantity of land in a county has been ascertained, its value is first computed according to the average prescribed by law; the aggregate amount is then apportioned to individuals, according to the relative value of their respective portions of lands and their interest therein, on the principles before-mentioned. The mode of recovering penalties or forfeitures incurred by concealment or fraud in the disclosure of property, is by presentment in a court of justice; the occasions for this are, however, represented to have but rarely occurred.

Erroneous or excessive assessments may be corrected by application to the commissioners of the tax for the county, who may examine the parties or other persons on oath, and finally determine as shall appear equitable.

When the assessments upon individuals have been completed, the assessors are required to report to the commissioners for the county alphabetical lists of all persons whose property has been valued, with a specification of the number and value of slaves of each description, the weight of plate, with the value thereof; also, the particulars of real and personal estates as designated by law, and the value of each description. When the owner of any property is not known, it is directed to be so returned.

Owing to the long time since any general tax has been laid, it has been found difficult to ascertain the quantities of taxable property now existing in the State. The annexed document (G) on this subject, so far as it is founded on returns, is entitled to full confidence; the estimate of certain objects is derived from an intelligent source, and is believed to be free from material error.

The collectors of taxes are appointed by the commissioners of counties, and give bond with sureties for the sums intrusted to them for collection; they account with one of the State treasurers, of which one is appointed for the counties eastward and the other for the counties westward of the Chesapeake.

Persons who were appointed under the last act to the office of collector, and who refused to accept the office or to give bond, were subject to a fine of fifty pounds.

It has been a general usage to appoint the sheriffs of counties to be collectors of taxes, who, with the consent of the commissioners, have been allowed to appoint deputies for one or more hundreds in said counties; for the conduct of their deputies the collectors or sheriffs have been held responsible.

The collectors under the last act were subject to the general control and superintendence of the commissioners of the tax, and might be compelled to disclose the sums actually collected, for the purpose of being required to pay the same to the State treasurer.

All goods and chattels found on lands chargeable with taxes were liable to be taken by distress; if no goods nor chattels were to be found, the lands remain chargeable with the tax and interest thereon, at six per centum per annum.

When it was discovered by a collector that a

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person charged with a tax resided in some other county, it became his duty, under a penalty of twenty pounds, to transmit an account of said tax to the commissioners of such other county, to be collected under their direction.

About two months after the time prescribed for the payment of the last tax, the collectors were required, under a penalty of two hundred pounds, to present their accounts for adjustment to the commissioners of their counties. In this adjustment the commissioners were authorized to allow the collectors a commission of four per centum, and to pass to their credit such sums as appeared to be uncollectable; it appears to have been the object of these settlements to define and fix the sums for which the collectors were to be finally responsible; two copies of each settlement were made, one of which was transmitted to the clerk of the House of Delegates and the other to the proper treasurer, by which to hold the collectors accountable.

Delinquent collectors and their sureties were liable to be proceeded against by a summary process; delinquent deputy collectors might be compelled to account, by warrants from the commissioners, authorizing the sheriffs to levy the sum due on the lands, goods, chattels, or persons, of the delinquents.

The commissioners and their clerks were allowed, each, ten shillings per diem, during the time their services were required; the assessors a sum at the discretion of the commissioners, not exceeding twenty-five pounds each; and the collectors as beforementioned, a commission of four per centum; the expenses of collecting the last tax, exclusive of loss, occasioned by delay and other incidents, amounted to twelve and one-half per centum.

The State tax assessed in 1786, amounted to twenty shillings on each hundred pounds of property, according to the valuation: the collection was several times partially or wholly suspended by the Legislature, on applications from the collectors.

In the year 1786, there was paid	£5,037	4	0
In the year 1787	-	37,610	6 2
In the year 1788	-	22,898	2 11
In the year 1789	-	33,478	7 7
In the year 1790	-	5,060	7 3
In the year 1791	-	2,084	14 4

Amount of the tax - - 106,169 2 3

A small part of the above statement is founded on estimate.

A principal part of the delay which attended the settlement of this tax, arose from the indulgences granted by the Legislature, and it may be doubted, on reverting to the state of the country at the time, whether the tax was not in some degree excessive; it will not, therefore, be proper to consider the proceedings under this act as affording a correct exhibition of the general operation of the State system. It is understood, however, that, on other occasions, the collection of State taxes has been inefficient and defective, owing

to the want of a more energetic control than has been afforded by the boards of county commissioners, and to the practice of entrusting the collection of taxes to sheriffs and their deputies.

The ordinary expenses of maintaining the State Government, are estimated at about twenty-five thousand pounds per annum; a small debt remains unliquidated; but the means already possessed by the State, are supposed to be more than competent to its discharge.

Taxes are collected in Baltimore town for town purposes, on riding carriages, wagons, carts, riding horses, tavern keepers, sales at auction, billiard tables, and on the play-house; besides a general tax on property. All these taxes may amount, during the present year, to thirty shillings on each hundred pounds of property, according to the usual mode of valuation. The annual county taxes are estimated, on an average, at eight shillings upon a hundred pounds of property. The proceeds are applied to the maintenance of county police, the building and repairing of court-houses, tobacco warehouses, bridges, repairs of roads, the support of the poor, and other local objects.

## OF VIRGINIA.

Lands in this State have received a permanent valuation, agreeably to which all taxes are imposed.

In pursuance of an act passed in November, 1781, the justices of each county appointed three commissioners, who were sworn to make an impartial valuation of lands in their respective counties. These commissioners had power to require of all proprietors an account of their lands lying within the county, distinguishing lots lying within any town. In forming their estimates, the commissioners were required to ascertain, according to their best judgment, the average price per acre for which each tract or parcel of land might be sold, for immediate payment in specie, excluding from valuation all reference to buildings or other improvements. Lands under a lease for years, were directed to be valued, in the first instance, without regard to the rent; but where such valuation exceeded twenty years' purchase, computed upon the rent reserved, the landlord was assessed for the amount of twenty years' purchase, and the remainder was apportioned to the tenant; the returns of the valuations were made to the auditors of public accounts.

As was to have been foreseen, the valuations made by the commissioners of counties, though they might be, and doubtless were, just and accurate, in respect to the relative value of different tracts of land within the same county, were found to be exceedingly unequal when compared with the valuations of other counties. This inequality, the unavoidable consequence of assessments by commissioners, whose proceedings were independent of each other, and uncontrolled by any common standard of opinion, rendered a revision indispensable. To effect a general equalization of the assessments, an act was passed in October, 1782, by which the different counties of the State were ar-

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ranged into four districts; in this classification of counties, reference was had to their soil and situation, with the view of obtaining a general and equitable standard of value for the lands of the several counties. This standard or average value was declared by the Legislature to be, for lands lying in the first district, ten shillings per acre; in the second district, seven shillings and six pence per acre; in the third district, five shillings and six pence per acre; and in the fourth district, three shillings per acre. To give effect to this declaration, two commissioners were appointed, who were directed to examine the county returns, and, after ascertaining the average value of the lands in each county, agreeably to the assessments made pursuant to the act of November, 1781, and, after comparing the same with the standard or average value for the district, to apply the difference by adding or deducting the same, *pro rata*, to the assessment of each individual.

Upon the assessments thus made, pursuant to the act of November, 1781, equalized according to the act passed in October, 1782, all taxes on lands, except on lots in towns, have been since apportioned by a poundage rate; this rate has, of late years, been five shillings on each hundred pounds, or one-fourth of one per centum *ad valorem*.

The tax on houses and lots in towns, is annually assessed by the commissioners of the revenue, who are authorized to require of every tenant or proprietor to disclose, on oath or affirmation, the amount of rent paid or received by them, respectively; in cases where houses or lots are in the occupation of the proprietors, the yearly rent is ascertained on a comparison of their value with other houses and lots actually rented; the tax lately assessed has been sixteen shillings and eight pence, or five-sixths of one per centum of the ascertained or yearly rent or income arising from this species of property.

The other revenues of the State arise from specific taxes on the following objects:

On every slave above twelve years of age, except such as are exempted by the county or corporation courts, on account of age or infirmity, at one shilling and eight pence each.

On stud horses and jack asses, at various rates; on other horses, and on mules, at four pence each.

On every ordinary license, two pounds.

On every billiard table, fifteen pounds.

On every four-wheel riding carriage, except phaetons, and stage wagons, six shillings per wheel.

On every phaeton and stage wagon, four shillings per wheel.

On every riding carriage with two wheels, two shillings per wheel.

Certain taxes are, moreover, imposed on legal proceedings in the superior courts; on transfers of surveyors' certificates for lands; on the instruments and attestations issued and taken by public notaries; on certificates issued by the county and corporation courts; and on certificates issued under the seal of the State.

An occasional revenue sometimes accrues from

the duties collected at the public warehouses on the inspection of tobacco, exceeding the expenses incident to these establishments.

All property belonging to the State, or to any county, town, college or seminary of learning, and houses dedicated to public worship, are exempted from taxation. Persons may be exempted, for age or infirmity, by judgments of the county or corporation courts. Artizans, mechanics, and tradesmen, who migrate into the State, are exempted from all taxes except on lands, for five years after their migration, if, during that time, they continue to exercise their occupations.

The tax on lands and on houses, and lots in towns, taken collectively, for the year 1794, amounted to	\$57,636 58
The tax on slaves, to - - -	47,007 78
The tax on horses and mules is estimated to have produced - -	15,154 95
The taxes on carriages, ordinary licenses, and billiard tables, by estimate - - - - -	9,954 73

The total amount of taxes of 1794, collected by sheriffs, under the apportionments of county commissioners of the revenue, (H) - - -	129,755 04
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From the foregoing gross amount of revenue, there ought to be deducted the following defalcations and expenses, incident to the assessment and collection:

Compensations of commissioners of the revenue paid in 1794 - -	\$11,931 60
Commissions to sheriffs for collection, five per cent. - - -	6,487 75
Allowances for insolvencies and errors, five per cent. - - -	6,487 75
Total charges of assessment and collection - - - - -	24,907 10

In addition to the commission of five per centum, which is the ordinary allowance for collection, a premium of two and a half per centum is allowed to sheriffs, who settle their accounts with strict punctuality.

The taxes on law process and official papers are collected by the clerks of courts, and by the officers by whom the papers are issued; the general taxes are assessed and collected pursuant to the following regulations:

Every county and corporation court in the State is required annually, in the months of September or October, to appoint one or more discreet and reputable persons to be commissioners of the revenue; in some counties the law requires the appointment of three commissioners, in others two; and in others one. Sheriffs, deputy sheriffs, and collectors of taxes, who have not finally settled their accounts, as also certain other officers, are declared incapable of serving as commissioners: in cases where the law requires the appointment of more than one commissioner to a county, the limits of their several districts are defined by the court having the right of appointment.

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The commissioners, after being qualified, by taking an oath faithfully and impartially to execute their trusts, receive from the commissioners of the preceding year, the books containing the permanent valuations of lands in their respective counties. In these books, all alterations, alienations, divisions, and additions, which occur in the county or district of a commissioner, are, from time to time, noted and recorded.

That the commissioners may be informed of the changes of individual property, the clerks of the general, district, county, and corporation courts, and the register of the land office, are required to furnish statements of all alienations, partitions, and grants, during the preceding year; in respect to alienations of entire tracts, the commissioners debit the purchaser and credit the seller for the tax transferred; in respect to lands which have been divided, the former tax is equitably apportioned between the proprietors. Lands recently granted are assessed at a price equal to other lands in the same district, similar in soil and situation.

In respect to taxable property, other than land, the commissioners are directed to commence a scrutiny on the 10th of March annually, to continue until the service is completed.

Each person, on the requisition of a commissioner, must furnish a written list of their taxable property, possessed on the 9th March, and verify the same on oath or affirmation. Persons who omit or refuse to exhibit verified lists, or who are guilty of concealments of taxable property, are subject to a fine and triple tax, on conviction before the next county court.

When the lists of taxable property have been taken, they are reduced to an abstract, according to a form prescribed by law, exhibiting the dates of receiving the lists, the names of the persons chargeable, and the articles subject to specific taxation. Of this abstract four copies are made, one for the use of the commissioner, and to be transmitted to his successor; one for the clerk of the county, by which to regulate county taxes and poor rates; one for the sheriff or collector of the tax; and a fourth for the auditor of the State, by which to hold the sheriff accountable.

At the time of rendering the abstracts before mentioned, which is directed to be on or before the last day of May annually, the commissioners are required to deliver to the clerks of their counties, and to the auditor of the State, correct copies of the state of the land tax, adjusted according to such alterations, alienations, and partitions, as are found to have occurred during the preceding year; by these returns the accounts of the State, and of the counties, are, from year to year, regulated. The commissioners, moreover, deliver to the sheriffs lists of the sums for which each person is chargeable on account of the land tax, by which to proceed in their collections.

Each commissioner is entitled to receive from the public Treasury, one dollar per diem for such a period as is judged requisite for the performance of his duties, by the county court; besides a fee of forty-two cents, for recording every

alteration in the land tax, payable by the party claiming an exoneration.

The counties are collection districts, of which there are eighty-eight in the State; the sheriffs are, ex-officio, collectors of taxes; they are appointed annually by the Governor, with the advice of his council, from a list of three justices of the county, nominated by the county courts; they cannot be appointed for more than two years successively.

It has been the usual practice for the county courts to nominate the justices in rotation, and for the Governor and Council to commission the first in nomination. If all the justices of the county refuse to accept the office, the county courts may nominate three freeholders, from whom an appointment may be made. In case of the disability or refusal of a sheriff to collect the public taxes, the Executive may appoint a collector.

Sheriffs and collectors, before entering on the duties of their offices, are required to enter into bonds, with sufficient sureties, before the justices of the county courts, in the sum of thirty thousand dollars, to secure a due collecting and accounting for the taxes imposed on their respective counties.

Persons who pay taxes may require a fair and distinct account of the articles upon which the same accrue, and also receipts from the sheriffs or collectors for the sums paid; if payment be not made on or before the first day of May, of all taxes due on the 31st day of December preceding, the sheriff or collector may distrain any slaves, goods, or chattels, found on the lands or in the possession of the person indebted, notwithstanding such slaves, goods, or chattels, are comprised in a deed or mortgage. All goods taken by distress, must be kept five days, after which time they may be sold for ready money, sufficient to discharge the taxes and incidental charges. Slaves cannot be distrained except for want of goods or chattels; no distress can be made after two years from the time when taxes become due.

In cases where effects sufficient to satisfy a tax are not to be found on the lands charged therewith, or where the persons indebted are insolvent, a list of such lands and insolvent persons may be rendered by the sheriff or collector to the county or corporation court, and if the court be satisfied with the truth thereof, they may admit the sheriff to make oath to such list, which, being certified to the auditor of public accounts, will entitle the sheriff or collector to a credit on settlement. Where it appears to the auditor that the persons indebted possess slaves or personal property in some other county, the taxes returned as uncollectible must be transmitted to the sheriff of the county for collection, with the taxes of the ensuing year. In case the said taxes are not collected during the ensuing year, it becomes the duty of the treasurer to publish, for three weeks successively, in the newspaper of the printer to the State, the names of the delinquents, with the quantity of land, the situation thereof, and the taxes due thereon; in case the taxes on any tracts of land not belonging to infants, insane persons, or married women, are not paid in three years, the right



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to such land becomes forfeited to, and vested in, the State; in favor of the persons above described, an exemption from liability to forfeiture is allowed, until the expiration of three years after their legal disabilities are removed.

The principles of the system of taxation before described, have been generally approved. Some objections have been made against the supposed inequality of the land tax, and against the mode of assessing houses and lots in towns. The duties of the county and corporation courts, have generally been well executed; the successive pretensions of justices to the primary office of sheriff have, however, not unfrequently occasioned defalcations, which might have been avoided by appointments with a sole reference to the qualifications proper for collectors of the revenue. The precise degree of punctuality with which taxes have been lately collected, is not known; of the tax for the year 1793, ten thousand dollars, and, of the tax for the year, 1794, eleven thousand dollars remained unpaid in August, 1796.

The expenses of supporting the State Government, and for contingencies and grants, in the year 1793, amounted to one hundred and twenty-seven thousand four hundred and forty dollars and thirty cents.

The same expenses, in 1794, were one hundred and fifty-seven thousand two hundred and one dollars, and seventeen cents.

The whole revenue of the year 1793 was one hundred and thirty-two thousand nine hundred and seventy-eight dollars and thirty-one cents.

And that of the year 1794, one hundred and fifty-nine thousand two hundred and sixty-nine dollars and thirty cents.

It is supposed that the statement for the year 1793 exhibits the most correct view of the usual annual expenditures.

The debt of the State is inconsiderable, and the arrearages of old taxes are considered as sufficient, when collected, for its extinguishment.

The amounts of the several articles which were subject to specific taxes, in the years 1786 and 1795, will appear in an annexed statement.

## OF KENTUCKY.

The objects of taxation are as follow:

Lands, except town lots, which are divided into three classes, by entire tracts. The first class is taxed at half a dollar per hundred acres, the second class at one-fourth of a dollar, and the third class at one-eighth of a dollar, per hundred acres. Horses, other than stud-horses, at one-twelfth of a dollar, which last are taxed at various rates; neat cattle at one forty-eighth part of a dollar; slaves at one-fourth part of a dollar; ordinary licenses at ten dollars each; coaches and chariots at one dollar per wheel; other four-wheel carriages, except those used for purposes of agriculture, two-thirds of a dollar per wheel; riding two-wheel carriages at one dollar per wheel; billiard tables and retail stores, at thirty-three and one-third dollars each. Taxes are, moreover, imposed on each original writ of *subpena* in the court of appeals, at one dollar; on like writs or *subpenas*

in other courts, half a dollar; on each appeal to the court of appeals, two dollars; on each writ of error, *subpena*, or *certiorari*, from the court of appeals, one dollar; on each record of a deed for land, half a dollar; on every paper issued under the seal of the State, one dollar; and under the seal of any court, half a dollar.

In addition to the specific taxes before enumerated, town-lots are taxed, *ad valorem*, at the rate of half a dollar upon every three hundred and thirty-three dollars and one-third—the value to be ascertained without regard to improvements.

For the assessment and collection of these taxes, the following regulations have been provided:

The county courts divide the counties into districts, for each of which a commissioner of taxes is appointed, whose duty it is to collect lists or returns of the taxables belonging to individuals. These returns are taken on the oath of the party, between the 10th of March and 1st of July in every year. The commissioners, severally, determine to what class lands in their respective districts shall be referred, on the following principles: Where the greater part of a tract is superior in quality to second-rate land, it is placed in the first class; where the greater part of a tract is inferior to first-rate, and superior to third-rate, it is classed as second-rate; where the greater part of a tract is inferior to second-rate, it is placed as third-rate; and where the commissioner has no knowledge of the quality, he may take information, on oath, of the owner of the land, or of any other person. If no information can be obtained, the land is assessed as second-rate.

When the returns of individuals are collected, they are digested in alphabetical order by the commissioners, and returned to the county courts. Of the general list for the county, three copies are made—of which, one, certified by the clerk of the county court, is transmitted to the auditor of public accounts; a second is delivered to the sheriff of the county; the third is retained for the use of the commissioners.

The county courts have power to correct mistakes in the lists, and to relieve persons aggrieved by erroneous or excessive assessments.

Persons who omit to include the whole of their taxable property in their lists are subject to a fine, and to the payment of treble taxes. If lands are omitted, the party forfeits his right and title thereto. Non-resident proprietors may return their lands directly to the auditor, and pay the taxes thereon to the treasurer.

The sheriffs are generally collectors of taxes; they are elected every three years by the people of the respective counties; they are required to give bonds, with sufficient sureties, for the faithful discharge of their trusts. If a sheriff, in any case, cannot give bond to the satisfaction of the county court for the county, or if he decline to collect the public taxes, the court may appoint a special collector, with the same powers and like responsibility, in respect to the revenue, as are provided in the case of sheriffs.

The sheriffs may proceed to make collections, by personal demand of individuals, from the first

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day of December to the first day of April. After the first day of April they may distrain goods and chattels, and, for want thereof, may sell lands for the payment of taxes. They are enjoined to settle their accounts by the first day of August in each year. In cases where there are interfering claims, and two or more persons pay the taxes for the same land, the person evicted is entitled to compensation from the treasury.

In cases where persons indebted are deemed insolvent, they may be reported to the county courts, and, being so adjudged, their taxes are certified to the auditor, and passed to the credit of the sheriff or collector. If either a sheriff or collector be delinquent, judgment against them may be obtained, on motion, with a penalty of twenty per centum, in addition to the sums remaining in arrear.

The compensation allowed to sheriffs, is, a commission of five per centum; that of commissioners is one dollar per day for the time they are actually employed—which last allowance is paid on the certificates of the county courts.

The debt of the State is inconsiderable. The expense of supporting Government may be estimated at thirty thousand dollars per annum. The amount of each species of taxable property, agreeably to the returns made by the commissioners of the several counties, in the year 1795, appears in a statement hereto annexed.

## OF NORTH CAROLINA.

The revenues of this State are derived from taxes on the following objects:

On all patented lands, except lots in towns, without regard to quality or situation, and on all entries of land, whether disputed or not, eightpence per hundred acres.

On every hundred pounds value of town-lots, with their improvements, two shillings.

On all white men of twenty-one years of age and upwards, whether free or bound to service; and on all slaves and indented servants of color, between twelve and fifty years of age, two shillings.

On stud-horses, various rates, which may be averaged at ten shillings each.

On licensed ordinaries, and houses for retailing spirituous liquors in small quantities, forty shillings per annum.

On every original writ, or leading process in equity, twenty shillings; in the superior court, ten shillings; in the inferior courts, five shillings; and on appeals from the inferior courts, eight shillings. On billiard tables, twenty pounds each.

The taxes abovementioned are collected under the following regulations:

The county courts divide the counties into convenient districts, and appoint a justice of the peace to receive the returns of taxables in each district. To facilitate the performance of this duty, it is usual for the captains of militia to advertise musters; to these musters the people repair, with written lists of their whole property subject to taxation, which are exhibited to the justices, on oath or affirmation. The period to which the lists refer is the first of April, annually. It is required that

each list should contain a specification of the particular tracts of land, the number of town lots, the counties and towns in which the same lie, and the number of white polls and taxable slaves appertaining to the family of the person exhibiting the same. Persons who omit to disclose true statements of their taxable property are liable to an amercement, and to the payment of a double tax.

The valuation of town property is effected by freeholders, three of whom are appointed annually in each town for this purpose by the county courts: they are sworn to estimate the true value of all lots, with their improvements.

The returns of individuals are, by the justices, exhibited to the county courts, with the names of the individuals who refused to comply with the law. Three transcripts of the returns, digested in alphabetical order, are then prepared; one is exposed publicly in the court-house, for the inspection and information of the people; another is delivered to the sheriff of the county, which constitutes a rule of collection; a third is transmitted to the comptroller of the accounts of the State, by whom the sheriff and his sureties are held accountable.

The sheriffs of counties are *ex officio* collectors of public taxes: they are appointed by the county courts, who are judges of the sufficiency of their sureties.

The sheriffs are authorized to collect not only the sums appearing on their lists, but also taxes from persons who omitted to make returns: from the latter they may collect a double tax, one-half of which accrues to their own benefit. To secure an account for such collections as are not borne on the lists furnished by the county courts, each sheriff is chargeable, in addition to the amount of his list, with one hundred pounds, unless he exonerate himself from the whole, or some part thereof, by rendering on oath a particular account of all two-fold collections. This provision is, by experience, found sufficient to secure returns of all extra receipts.

The sheriffs are authorized to commence their collections after the first of January: they may not distrain until after the first of April, but they are required to settle their accounts, and pay the moneys into the State treasury, by the first day of October, annually.

The sheriffs obtain credit for such taxes as appear to the county courts to be due from insolvents, on being certified as such to the comptroller. All taxes remain a lien upon lands until discharged, and where goods and chattels cannot be found, may be sold for payment of taxes.

The compensation allowed to sheriffs is six per centum on the amount of their collections, and an allowance of sixpence per mile for travelling to and from the Treasury, to settle their accounts. These compensations are both forfeited, if the sheriffs do not settle their accounts by the first day of October in each year.

When sheriffs are delinquent, the treasurer is required to obtain the certificates of the comptroller of the sums due, including the extra charge of one hundred pounds, and thereupon to apply for

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judgment and execution against the delinquents. These judgments are granted of course, on motion by the treasurer, without notice to the sheriff, or any evidence other than the comptroller's certificates.

The clerks of courts account with the treasurer for all collections made by them of taxes on law-process and fines on amercements.

The annual product of all the taxes before-mentioned may be computed at this time to be between fifteen and sixteen thousand pounds. The charges of collection and defalcations for insolvents are estimated at fifteen per centum.

On account of the tax for the year 1794, the returns of lands amounted to fourteen millions three hundred and fifty-nine thousand six hundred and seventy acres; and the number of free persons, servants, and slaves, subject to taxation, to one hundred and one thousand six hundred and five. The taxes on law-process, houses for retailing spirits, gaming-tables, and stud-horses, are supposed not to have produced, at any time, more than one thousand pounds per annum. The land tax has greatly increased since the year 1794, owing to the many new entries since that period.

The following estimates of the proportions in which each class of taxable objects contributes to a nett tax of between fifteen and sixteen thousand pounds upon the State, being founded on the foregoing data, cannot be materially erroneous:

Tax on lands, other than town-lots, computed on fourteen millions three hundred and fifty-nine thousand six hundred and seventy acres, at eight-pence per hundred acres	£4,786	10	0
Tax on white males of twenty-one years and upwards, and on all slaves and indented servants of color of both sexes, from twelve to fifty years of age, computed on one hundred and one thousand six hundred and five persons, at two shillings each	10,160	10	0
Estimated product of taxes on law process, houses for retailing spirits, gaming-tables, and stud-horses	1,000	0	0
Estimated product of the tax on town-lots and improvements, at two shillings in each hundred pounds	1,000	0	0
Estimated increase of the tax on lands since 1794, occasioned by new entries and grants	1,500	0	0
Gross product of all taxes	£18,447	0	0
Expenses of collections and defalcations, occasioned by insolvents, estimated at fifteen per centum	2,767	0	0
Estimated nett receipts	£15,680	0	0

There are fifty-eight counties or collection districts in the State. The whole revenue is collected by fifty-eight sheriffs and seventy-four clerks of courts and masters in chancery.

The expenses of supporting Government and

contingent grants vary from fifteen to twenty thousand pounds per annum. The deficiency of the State tax has been hitherto supplied from the proceeds of vacant lands. The debt of the State consists principally of paper bills of credit, of which about one hundred and fifty thousand pounds are estimated to be in the treasury and in circulation. The amount of the county taxes is supposed to be nearly the same, on an average, as the annual State tax.

## OF TENNESSEE.

It is not known whether any law for collecting a revenue has been yet passed in this State.

## OF SOUTH CAROLINA.

All the lands in this State are divided into districts, which are particularly described by law. Within most of the districts the lands are classed by general descriptions, indicative of their value, as resulting from natural fertility or situation. To each class a specific value is assigned, according to which all lands falling within a given class are uniformly taxed: For instance, all tide-swamps, not generally affected by the salts or freshes, of the first quality, are rated at six pounds per acre; of the second quality, at four pounds per acre; of the third quality, at two pounds per acre; all pine-barren land, adjoining such swamps, or contiguous thereto, with respect to the benefit of water-carriage, at ten shillings per acre; all prime inland swamp, cultivated and uncultivated, at an average of three pounds per acre; second quality at two pounds per acre; third quality, at one pound per acre; pine-barren land, adjoining or contiguous thereto, at five shillings per acre; salt marsh, or inland swamp, proved to be incapable of immediate cultivation, at five shillings per acre.

In like manner, all the lands in the State are valued by districts or classes. The quantities of lands subject to taxation at each rate, and of all other articles of ratable property, as returned in consequence of the tax granted in the year 1794, are hereto subjoined.

From the foregoing general rule of valuation, lands lying within the parishes of St. Philip and St. Michael, near Charleston, are excepted; these last, with lands, lots, and buildings, lying within any city, village, or borough, are assessed in detail, with reference to the local advantages and value of each separate lot or building, and in a relative proportion to lands in the country.

The tax on lands, lots, and buildings, has lately been ten shillings on every hundred pounds, or one-half of one per centum ad valorem; a like tax has been imposed on every hundred pounds of stock in trade, factorage, employments, faculties, and professions; clergymen, mechanics, school-masters, and schoolmistresses excepted. All slaves are taxed at four shillings and eight pence per head; and free negroes, mulattoes, and mestizoes, at nine shillings and four pence per head; a tax is collected on sales at auction, but the rate imposed is not certainly ascertained.

The assessors and collectors of taxes are the same persons; they are appointed by the Legisla-

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ture; vacancies which happen from deaths or resignations, are supplied by the Governor; the collectors hold their offices during the pleasure of the Legislature.

The collectors for the parishes of St. Philip and St. Michael are required to give bonds in the sum of ten thousand pounds; the other collectors are bound in the sum of one thousand pounds; before entering upon the execution of their offices, they are sworn to a faithful and impartial discharge of their trusts; in case of omission to take the said oath before entering upon their offices, they forfeit the sum of fifty pounds.

Three weeks prior to the first Monday in September, annually, the collectors notify the inhabitants to prepare returns of their taxable property; in the parishes of St. Philip and St. Michael, the collectors are required to call once at the dwellings of the inhabitants; in other parishes, fixed places may be appointed for receiving the said returns; no person can, however, be compelled to attend at a greater distance than fifteen miles from his residence, either for the purpose of delivering a return, or making payment of a tax.

Every person possessed of any taxable property, either in his own right, or in the right of any other person, as guardian, executor, attorney, agent, or trustee, is required to exhibit, on oath, an account containing an enumeration of each lot of land lying in any city, borough, or village, with the dimensions thereof, and improvements thereon; also of his lands in the country, with a particular account of the situation, quantity, and quality of the same, and the number of his slaves, and all other objects of taxable property; these accounts are taken with reference to the first day of October, annually. Persons who conceal any part of their taxable property, are subject to quintuple taxation on such part as has been concealed; persons who neglect, or refuse to exhibit their accounts, are declared to be defaulters, and may be doubly taxed, according to the best information which the collectors can obtain of their taxable property.

When the accounts of taxable property have been collected, the collectors determine the class to which any lands shall belong; and in respect to other objects of taxable property, they annex such valuations as they judge equitable. The assessments on stock in trade, faculties, and professions, are founded on conjectural estimates, according to the best judgment of the collectors. These assessments are understood to be generally very moderate; in Charleston, they are graduated according to the circumstances of individuals, from five thousand to one hundred dollars.

When individuals judge themselves to be over-rated, they are allowed to fix the quantum of their assessments, by declaring on oath the value of their property; their declarations so made, become, in this case, a rule for the government of the collectors.

There are two treasurers in South Carolina, one residing in the upper and the other in the lower country. To these officers, the collectors of taxes account, by delivering two lists; the first

containing a specification of all taxable property returned to them, with the names of the persons who returned the same, and the sums paid by individuals, respectively; the second containing an account of all taxable property which has come to the knowledge of the collectors, and which has not been returned. Collectors who refuse to render accounts, on oath, in the manner before mentioned, may be committed to prison by warrants from the commissioners of the treasury.

Lists, containing the names and sums assessed upon individuals, are publicly exposed at the exchange in Charleston, or at some public place in the parishes where they reside for ten days; after which time, if the taxes are not paid, warrants are issued by the collectors, directed to the nearest constable, or to the sheriff of the city of Charleston, commanding them to levy the taxes by distress and sale of real and personal estate: if the defaulter neglect or refuse to point out lands, or to produce goods or effects, whereon the warrants may be levied, his person may be taken and committed to prison. Taxes are preferred to all securities, and must be paid out of the assets in the hands of executors, prior to any judgments, mortgages, or debts whatsoever.

Lands and property, of persons residing out of the State, upon which the taxes are not paid, with interest thereon, within one year after public notice in the gazettes of the State, are forfeited to the use of the State, saving the rights of infants and married women, until two years after the removal of their legal disabilities.

The property of persons residing without the limits of the United States, except persons in the employment of the State, or of the United States, and young men sent abroad for their education, until they attain the age of twenty-three years, is subject to double taxation. Property belonging to religious or charitable societies, cities, or free schools, is altogether exempted. Individuals may elect in what parish to pay their taxes; the taxes paid in Charleston, of course, include assessments on property lying in all parts of the State.

The collectors are allowed a commission of five per centum on the sums accounted for by them, except those for the parishes of St. Philip and St. Michael, who are allowed only two and one-half per centum.

The balance found due from the United States, on the final settlement of the accounts of the late war, is understood to be nearly equal to the domestic debt of the State; a sum of about two hundred and ten thousand dollars remains due to certain foreign creditors, for the interest and reimbursement of which, an annual tax of one-fourth of a dollar per head on slaves, is pledged and appropriated. The expenses of maintaining the State Government and contingent grants, are estimated, on an average, at one hundred and twenty thousand dollars. The expenses of the city of Charleston are defrayed by local taxes; from September, 1795, to September, 1796, these expenses amounted to nearly fifty thousand dollars; the amount of parochial and other taxes in the country is not known.

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The period during which a State tax has been usually in collection is not ascertained. It is inferred, however, from information which has been obtained, that the practice of combining the appointments of assessors and collectors in the same persons; the want of an efficient control over the accounts of the collectors, of which this association of duties has been a consequence; and the permission to individuals of electing the parish or county where their taxes shall be paid, have been causes of defalcations and delays, which would not otherwise have been experienced.

## OF GEORGIA.

Lands in this State, as in South Carolina, are laid into districts or classes, to each of which a value is assigned by law. In the act granting a tax for the support of Government for the year 1796, tide swamps of the first quality are rated at ten dollars and thirty-nine cents per acre, and pine barren lands at twenty-one cents per acre. Lands of intermediate qualities are rated at various rates, according to their advantages either of soil or situation.

On the value of lands, agreeably to the classification above-mentioned, and on the value of all lots, wharves, and buildings, within the limits of any town, village, or borough, as ascertained by a particular assessment, a tax has been imposed of forty cents upon each hundred dollars.

On every hundred dollars value, at prime cost, of the stock in trade of shopkeepers, twenty cents.

On every hundred dollars value of foreign wares, liquors, and merchandise, sold, bargained, or trafficked for, by factors and brokers, eighteen and three-quarter cents.

On every hundred dollars of the funded debt of the United States, fifty cents.

On all free white male persons of the age of twenty-one years and upwards, and on all slaves under the age of sixty years, thirty-seven and a half cents.

On all male free negroes, mulattoes, and mestizoes, from the age of twenty-one years and upwards, over and above the taxable property they may be possessed of, fifty cents.

On all negroes brought into the State by sea, for settlement or sale, except such as are brought in by emigrants from any part of the United States, ten dollars.

On all professors of law or physic, and on all factors and brokers, four dollars.

On all billiard tables, fifty dollars.

The county courts have power to remit the poll tax in favor of indigent and infirm persons.

In every county there is appointed a receiver of tax returns, who is sworn to a faithful discharge of his duty. The receivers are required to give notice to each captain's district in their counties, by previous advertisements, for ten days, of the times and places where they will attend to receive returns of taxable property. They are required to attend three days in each district, which days must not be within seven days of each other. The commanding officer of each company must furnish the receivers with lists, on oath, of all per-

sons in their districts liable to the payment of taxes.

All persons possessed of taxable property are required to exhibit, on oath, particular accounts thereof, to the receivers of tax returns, under a penalty of ten dollars for every hundred dollars value omitted or concealed, and a liability to the payment of double taxes, to be ascertained by three freeholders of the county.

When the returns of inhabitants have been collected, they are by the receivers digested into a general return, of which three copies are made, one for the use of the collector of the county, a second for the treasurer of the State, and a third for the county court of the county. Within one month after the returns are made, the receivers are required to publish, in the State gazette, the names of all defaulters.

The counties are collection districts. The collectors are required to give bond, with surety, according to the magnitude of the sums entrusted to them for collection, from twenty thousand to three thousand dollars; they are sworn to a faithful discharge of their offices; the sufficiency of their sureties is determined by the justices of the county courts. Receivers of tax returns and collectors are appointed by the Legislature; vacancies are supplied by the Governor.

The act granting the tax for the present year, was passed in the month of February. Individuals are allowed till the first of December to make their respective payments, after which their goods and chattels may be distrained and sold; if goods and chattels are not to be found, lands may be taken, sold, and conveyed by the collectors, notice for twenty days, being previously given in the public gazettes of the State. The collectors' accounts must be settled with the treasurer before the first day of February, 1797. Claims of collectors on account of taxes due by insolvents, are to be presented on oath, to the grand jurors of the respective counties, who are empowered to decide finally thereon.

The receivers of tax returns are allowed two and one-half per centum on the taxes arising upon the property reported by them, beside six cents and one quarter on each return of a poll without property. The collectors are allowed five per centum on the sums accounted for by them, and certain fees in cases of distress, which are paid by the delinquents.

No information has been obtained of the quantities of taxable property in this State, of the amount of its debt, the usual expenses of maintaining Government, or the manner in which the revenue laws have been executed.

As an apology for the minuteness of the foregoing detail, the Secretary respectfully observes, that, fully conscious of the importance and difficulty of the subject under consideration, he has been anxious to prevent the consequences of any misapprehensions on his part, by a full exhibition of the data upon which his opinions have been formed. Owing to the great variety of acts and documents, which it has been necessary to con-

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sult, it is not to be presumed that the foregoing recital is perfectly accurate. It is hoped, however, that no errors will be discovered, which can embarrass or delay the deliberations of the Legislature.

In the expression of opinions respecting the best mode of imposing the proposed tax, the three following have been suggested:

1. That an act of Congress should be passed, declaring the quotas of the different States; assigning a time for payment into the treasury, and prescribing, in cases of delinquency, that the said quotas should be assessed and collected by authority of the United States, upon the same objects of taxation, and pursuant to the same rules by which the last taxes were assessed and collected by the respective States.

2. That the act of Congress should direct that the proposed tax should be assessed and collected under authority of the United States, upon the same objects of taxation, and pursuant to the rules of collection by which taxes are collected in the States respectively.

3. That the act of Congress should define certain objects of taxation, and principles of assessment, according to which the proposed tax should be assessed in all the States, to be collected pursuant to uniform regulations.

The first of these propositions deserves but a momentary consideration. In the first place, it is obviously liable to every objection which can attend a reliance upon State contributions in any other and less exceptionable form. Secondly, it partakes of the system of requisitions upon the States, which utterly failed under the late Confederation, and to remedy which, was one great object of establishing the present Government. Thirdly, it presupposes a possible necessity of recourse to the national authority, under circumstances of unavoidable collision with the State Governments.

It may, therefore, be safely affirmed, that, if this mode should be adopted, all certain expectation of a revenue from direct taxes will be destroyed; that discontents and jealousies between the different members of the Union will be excited; and that the constitutional power of the Government of the United States will be required to be exerted under unfavorable circumstances.

The second proposition is recommended by plausible, if not solid considerations; and as the resolution of the House countenances an expectation that a plan of this nature may be realized, its advantages and disadvantages have been maturely considered.

It appears, from the account already given of the fiscal systems of the several States, that, in many instances, they have been long established; that, in general, they are well approved by the people; that habit has rendered an acquiescence under the rules they impose familiar. A presumption in favor of their intrinsic merit, arises from their having been enacted by Legislatures possessed of a minute and particular knowledge of the circumstances and interests of the respective States; and it may be conceded that, so far

as the principles of the State systems can, with propriety, be adopted by Congress, the hazards of new experiments, and the delays incident to the organization of a new plan, will be avoided.

It is believed that the foregoing observations comprise the substance of all the arguments which can be urged in favor of the proposition to be considered. They are acknowledged to be of weight. According to first impressions on most minds, they will be pronounced almost irrefragable. It is, however, presumed, that a particular knowledge of the State systems, and attention to their operation, will produce a conviction that the plan is liable to great, if not insuperable objections.

1. The systems of the States are, in many instances, utterly different from each other, in respect to objects and principles of taxation.

The truth of this proposition is demonstrated by the preceding part of this report, and by the documents which are hereunto annexed; it may be proper, however, to contrast some of the most important features of difference:

1st. Uniform capitation taxes, or taxes on persons, without respect to property, professions, or occupations, are imposed in Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, North Carolina, and Georgia. The proportion of taxes raised in this manner, in Vermont and Georgia, is not ascertained; in the other States above mentioned, the capitation taxes produce between two-ninth parts and somewhat more than one-third part of all the sums collected. In the other States this tax is unknown, the taxes on professions, and certain classes of persons, and on slaves, not being considered as of this description.

2d. Taxes on horses and cattle, with certain exceptions, are imposed in Vermont, New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, and Kentucky. Horses only, are taxed in Virginia. The whole stock of farms is included in the general valuations of property in Rhode Island, New York, Delaware, and Maryland. In all the other States, no part of the stock of farms is subject to taxation.

3d. Taxes are imposed on the mass of property, real and personal, with certain exceptions, in the States of Rhode Island, New York, Delaware, and Maryland. In the other States, specific objects are designated.

4th. Lands, including those unenclosed and uncultivated, are subject to taxation in all the States, except Vermont and Delaware. In the latter State, they will be hereafter taxed. Lands are uniformly taxed by the quantity, without reference to soil or situation, in North Carolina. They are divided into three classes, with reference to quality, in Kentucky, each of which is uniformly taxed. They are taxed uniformly, by districts, in South Carolina and Georgia, whether cultivated or uncultivated. They are taxed according to a permanent valuation, in Virginia. The relative value of lands in different counties or districts, is determined by law, in Maryland and New Jersey; within which districts they are taxed *ad valorem*, not exceeding certain average rates. In Pennsylvania, lands are taxed *ad valo-*



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rem, according to triennial assessments. In Connecticut, except certain lands in two counties, they are taxed according to the mode of cultivation or condition, by a uniform rule, without reference to value. In Massachusetts and New Hampshire, they are taxed according to their produce or supposed annual rent or profit. In Vermont, enclosed and cultivated lands, with certain exceptions, are uniformly taxed, without reference either to value or profit.

5th. Stock employed in trade or manufactures, and moneys loaned on interest, are taxed on different principles, in different States. In some States, these objects are wholly exempted.

6th. Assessments at discretion, on the supposed property and income of individuals, are permitted in various degrees, and under different modifications, in some States. In other States, all taxes attach to certain defined objects, at prescribed rates.

Other circumstances of discrimination might be noticed; those which have been mentioned, are, however, sufficient to show that the State systems are utterly discordant and irreconcilable, in their original principles. It now remains to deduce the objections arising from this diversity of system.

It is assumed as a principle, that all the objects of income, whether consisting of skill, labor, or capital, bear certain relations to each other, which may be defined to be their natural value.

When a consumable article is taxed, the relations by which value was before determined, are immediately affected; the tax being an unavoidable expense attached to the article, enhances its value. But, though the value of the article in this sense is enhanced, by being rendered the subject of taxation, it is well known that its price in money may still remain as before, or may be enhanced, or may even be depressed. Value, therefore, is determined by the degrees of labor, skill, and expense, necessarily bestowed on a subject; while price is determined by the correlative demand for money, and the articles for which money is exchanged.

Various causes may influence price, independent of, and unconnected with, taxes. The most useful of these are the occasional plenty and scarcity of money, or its substitutes; or a redundant or deficient supply of exchangeable commodities. The vibrations of price, produced by these causes, are, however, always temporary; it being the constant tendency of free commerce to restore that equilibrium which results from a coincidence between price and value.

Unless taxes are laid with a view to encourage certain objects, by giving a new direction to the public industry, it is proper that the natural relations of value should be regarded. When, notwithstanding a new tax, the price and value continue to be coincident; when no business or profession is either encouraged or discouraged, taxes may be said to be laid with perfect equity, and in exact proportion to the relative ability of individuals.

Various have been the devices of nations to  
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attain this object; the regulations of the United States have been, hitherto, governed by the following maxims:

1st. To tax the same subject, in all cases, by an uniform rule.

2d. To protect every taxed article by a proportional tax upon its competitor.

3d. To prevent disadvantageous competitions in foreign markets, by bounties or drawbacks, proportioned to the amount of the tax.

There appears to be no good reason, why these principles, so far as circumstances will permit, should not be respected in a system of direct taxation for the United States; their application to the subject, and the objections which they form against the State systems, are obvious.

If an article is taxed in one State, and is entirely exempted or differently taxed in another State, the action of the tax upon the same subject must be different in these different situations; in the State in which the article is taxed, it must suffer, not only from the new and disadvantageous relation in which it will be placed in respect to other branches of industry, but it must also suffer from competitions of industry similarly employed in other States. From the first mentioned disadvantage, relief will in time be obtained, by the operation of those causes which invariably conform all supplies to the state of the demand; from the last, it can never be relieved, except by a change of situation. The tendency of opposite systems of taxation, in the same country, if the foregoing positions are true, must, therefore, be, to dislocate property, and to divert industry from those situations in which it might naturally have found employment.

The Secretary feels no disposition to magnify the force of this objection, and therefore he observes, that the influence of such a tax as is now proposed to be laid, may not be so considerable as to be immediately visible. An effect can only be proportioned to its cause; if, therefore, the theory should be admitted to be true, yet, if its application to practical purposes is only to be justified by speculative reasoning, and shall appear to be unfounded in probability, it may, with propriety, be discarded.

In speaking of the probable effects of collecting a general revenue, by diverse modes of taxation, it is, however, proper to notice that the peculiar circumstances of the United States will justify an opinion, that even slight causes may produce great effects. Enterprise, in pursuit of wealth, is a characteristic of Americans; a part of our country is wholly unexplored, and the residue susceptible of great meliorations; a free circulation of industry and wealth is patronised by our laws; capital is very equally divided; attachments and habits, favorable to particular employments, are but imperfectly formed; expensive manufacturing establishments exist but in few instances, and rarely accompanied with any peculiar local advantages.

It is believed that most of these circumstances favorably discriminate the United States from every other country; they are all of a nature to

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render the effects of any general system of taxation inoppressive, by facilitating a restoration of that proportional level between price and value, supply and demand, which taxes have a tendency to disturb; but, at the same time, they powerfully dissuade from systems of a local bias and operation.

It is no refutation of this objection to say, that the existing relations of property and industry have conformed to the State systems, and would be disturbed by a change. It is known that the State taxes have generally been very inconsiderable; that the most partial taxes, when very moderate, produce no sensible effects; that when, as during the Confederation, attempts were made to draw a considerable revenue from requisitions, insuperable difficulties were found to attend the collection of direct taxes, in every State; it will also be recollected that these difficulties were, in a great measure, ascribed to the discordance and counteraction of opposite systems; experience, therefore, instead of refuting, affords a proof of the principles herein maintained.

II. A second objection against adopting the laws of the States arises from the diversity of the principles by which taxes are apportioned and collected.

It appears from the preceding part of this report, that, in the States south of Delaware, including Kentucky, all taxes attach to persons or to individual property, and that the assessing and collecting officers are appointed by the Legislatures, State Executives, or by certain courts. In the States north of Delaware, taxes attach to corporations or districts, as townships or counties, in which the assessing and collecting officers are chosen by the people, who are ultimately responsible for their conduct. In the State of Delaware, taxes are apportioned to counties, but, as the collectors are appointed by the treasurer, the counties are not responsible.

It is of the utmost importance that a strict responsibility should be maintained in every grade of the fiscal department; without real responsibility, the characters of those entrusted with the public revenues can never be protected against unjust suspicions, nor can abuses be long prevented.

To secure responsibility in the collection of a direct tax, it appears to be essential that the persons who assess the tax should be different from those who collect moneys from the people; in other words, no man ought to be allowed to prescribe the rule by which individuals are to contribute, and by which his own accounts are to be adjusted. If it shall be determined to impose a direct tax, in the mode prescribed by the laws of the several States, it is not perceived how the principle of rendering districts responsible for fixed quotas, can, in respect to certain States, be renounced.

Nothing is more certain than that a new assessment will be necessary for every tax imposed on objects of a transitory nature; and that, in proportion to the variety of objects, will the details

of assessments be rendered complicated, and susceptible of error.

To establish officers in every district, possessed of skill competent to institute and maintain a check on the collectors, would be attended with enormous expense; to allow the people to elect assessors in the manner now practised, and, at the same time, to renounce the idea of local responsibility, would be manifestly unsafe. Under such a system, there could be no security that local partiality would not lead to connivances for the suppression and concealment of property justly subject to taxation. Notwithstanding the temptation to practices of this kind is greatly diminished, by establishing quotas, yet the returns of taxable property, hereto annexed, exhibit, in some instances, most decisive indications of imperfection.

There is reason to believe that an experience of the difficulty of obtaining accurate and impartial assessments has dictated many of the late changes in the State systems; it being observable that where the principle of local responsibility has not been adopted, the systems of taxation have been simplified, and more and more confined to visible and permanent objects.

But, though the principle of local responsibility appears to be a natural consequence of assessments, requiring a minute and frequent specification of taxable objects, yet it is to be observed that a system of this nature is frequently dilatory, and sometimes may be found impracticable, owing to the intrinsic difficulties which must ever attend the coercion of communities.

In the States south of Pennsylvania, where taxes attach to persons or to individual property, the State regulations are more coincident with those by which the internal revenues of the United States have been hitherto governed, than in the northern section. The taxes are more specific, and are confined to fewer objects. Nevertheless, in some of the States, the assessment of a tax would necessarily require specifications of considerable extent and intricacy, in order to secure a due responsibility to the public.

If it should be determined that the rules by which taxes are collected in the several States shall form the basis of an act of the United States, still provisions would be necessary in cases where the State laws are defective; in the States of New York and Pennsylvania no taxes have for several years been imposed, except for county purposes; the quotas of the several counties, in respect to the last tax, would evidently be unsuitable at present; and even if the valuations by which county taxes are now assessed, were known, they would not afford a just criterion for apportionments; being designed merely to regulate the quotas of townships, and the proportions of individuals, no judgment of the relations of the several counties to each other could be deduced from them.

In some of the States, all officers, in others, officers of certain descriptions, are disqualified by law from accepting appointments under the General Government; serious inconveniences have been experienced in the collection of the internal

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revenues already established, from this cause; they would be increased by an adoption of the State systems to a degree which it is not easy to foresee or calculate.

To the objections which have been stated, and which relate to local and subordinate administration, it is proper to add those which would affect the Treasury Department, under the operation of a system predicated on the proposition now considered.

No extensive business can be conducted with security, except it be susceptible of plain, distinct, and invariable regulations. Cases will, indeed, arise, relative to which some degree of discretion must be exercised. Under a well-organized plan, these cases may always be identified, to be judged of according to their particular circumstances and merits. In proportion to the complexity of any system, will be the number of doubtful or anomalous cases, and in the same proportion will the number of general rules, and the volume of details, be increased.

All causes which complicate business tend to produce error, to lessen responsibility, and to encourage and foster suspicions to the disadvantage of the Executive Administration. It is believed that the laws relating to the fiscal department have been hitherto framed according to principles, and executed in a manner, which will admit of a satisfactory elucidation of every material transaction. Though the business of the Treasury consists of several branches, yet each branch is governed by uniform rules; there has, therefore, as yet, been introduced no other complexity than what unavoidably results from a variety of duties. To enforce one simple and uniform system of taxation throughout this extensive country, would considerably add to the labors of that Department; the considerations which have been mentioned, oppose strongly that accumulation of duties which would result from a system founded on a diversity of principles.

The Secretary presumes that it has been evinced that there are weighty, if not insuperable, objections against an adoption of the State systems by the United States; the more difficult task of proposing a plan, not attended with difficulties of equal or greater magnitude, remains to be attempted. To this end, a review of the principal taxes collected in the several States, appears to be necessary.

*1st. Uniform capitation taxes, or taxes on persons, without reference to property.*

This species of tax is liable to fewer objections in the United States than in any other country; such is, and must be, the demand for labor, while lands are so easily attainable as at present, that there can be no danger of depressing the condition of laborers. A tax of this nature could, moreover, be easily adjusted, both to the rule of uniformity and to the rule of apportionment, by one of which the Constitution requires that all contributions shall be regulated.

But it cannot be doubted that capitation taxes tend to increase the price of labor, and of

course to discourage manufactures, contrary to the policy of the United States. Moreover, by multiplying the objects of taxation, an undue proportion of the public burdens is thrown upon the class of middling farmers, whose interests appear to be disadvantageously affected by the operation of most of the State systems. This species of tax is decidedly opposed by public opinion in some States. A new assessment would be necessary for every tax, the expenses of which, and of maintaining a due check upon the collection, would be disproportioned to the revenue; and owing to migrations, a considerable part of every assessment would fail of being collected. On these grounds, capitation taxes are deemed inexpedient.

*2d. Taxes on the stock and produce of farms.*

Taxes of this kind are unequal, even when imposed according to uniform rates, as is the practice in most of the States. When they are not imposed according to uniform rates, they are necessarily arbitrary, and still more unequal. The same article, in different situations, being of very different value, a uniform tax on the stock of farms could not fail of producing various results in respect to the income of individuals. Taxes of this nature discourage improvements. Beasts employed in agriculture and common transportation are, in no respect, more eligible objects of taxation than the tools and implements of a farm, or those of a trade or profession. A great proportion of the stock of middling farmers is of this description, upon which a tax on the stock of farms would fall with undue weight. Such a tax would require minute specifications and repeated assessments; the effects of which towards increasing the expenses of collection and diminishing the responsibility of the revenue officers, have been already noticed.

*3d. Taxes on stock employed in trade and manufactures, and on moneys loaned on interest.*

It is believed that direct taxes on these objects, except in extraordinary and temporary emergencies, are impolitic, unequal, and delusive. When taxes of this kind are so levied as not to be, in some form, reimbursed to the contributors, they tend to drive capital, commerce, and industry, from a country; in other cases, they operate as taxes on consumable commodities. They are either arbitrary, or they require an inquisition into the circumstances of individuals, to which free Governments are incompetent. As it is practicable, in most cases, to arrive at the object proposed by taxes of this description, by means of uniform duties on consumable commodities, and on visible signs of expense, there appears to be no reason for recurring to a mode which constant experience has shown to be unequal and unproductive, and which is in its nature arbitrary.

*4th. Taxes on the profits resulting from certain employments.*

This head will comprise a variety of taxes collected in certain of the States upon lawyers, physicians, and other professions, upon merchant

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traders, and mechanics, and upon mills, furnaces, and other manufactories. In some States these taxes are attempted to be proportioned to the gains and profits of individuals, in which cases they are both arbitrary and unequal; in other States, the taxes are uniform, in which cases they are only unequal.

It is presumed that taxes of this nature cannot be considered as of that description which the Constitution requires to be apportioned among the States; moderate taxes of this kind have been resorted to in most countries. It is impossible to render them exactly equal; that they are easy of collection, that their operation is indirect, and that they are capable of being rendered perfectly certain, are recommendations in their favor.

*5th. Taxes on lands.*

A direct tax, in the sense of the Constitution, must necessarily include a tax on lands; it therefore only remains to determine on a mode of assessment, of which the principles shall be, as nearly as possible, certain, uniform, and equal.

The general principles, according to which lands are now taxed in the several States, have been already mentioned. Taxes on the quantity of lands, without respect to quality, situation, or improvements, are both certain and uniform; but they are so manifestly unequal as to be altogether improper, except in countries very recently settled, and where the taxes are very moderate.

Uniform taxes on lands, with reference merely to districts or local situation, are certain; but when imposed on districts partially and unequally improved, they are exceedingly inequitable. If any considerable taxes should be imposed, according to this rule, on lands so circumstanced, it is believed that it would be perceived to be their tendency to accumulate landed property into few hands, and to discourage improvements.

Uniform taxes, with reference to the quality of lands, determined by a classification, are somewhat less certain, though more equal, than either of the modes beforementioned. During a certain period after the first settlement of a country, this mode of raising a moderate revenue appears to be liable to no considerable objection.

A uniform tax on all improved lands would be sufficiently certain, though very unequal, except in a country the lands of which were nearly similar in quality, productions, and advantages, in respect to markets; this mode of taxation is, therefore, but illy adapted to the condition of any other than a small State and recent settlements.

A uniform tax on lands, with reference to their condition or mode of cultivation, would evidently be unsuitable, except in a small State, where the quality of the lands and circumstances of the people were nearly similar; the frequency of assessment which this mode of taxation requires is of itself an insuperable objection against its adoption as a general rule.

Taxes proportioned to the value of improved lands, and taxes proportioned to their produce or annual income or rent, are nearly, if not entirely, alike in principle. In countries where lands

are generally leased and cultivated by tenants, the annual rent affords a certain criterion of value; but in this country, where lands are generally held and cultivated under allodial tenures, the sums of money for which lands are commonly sold afford a more correct standard. As unimproved lands afford no rent, their value can be no otherwise determined than by the rule last mentioned.

The value of lands being assumed as the most eligible criterion of assessment, a question arises, how often will new assessments be necessary?

In a country generally peopled or cultivated, or, in other words, where the relative value of lands has been adjusted by settlements in every part, there appears to be no necessity for frequent valuations. On the contrary, taxation, by a permanent and invariable rule, would be most convenient for both the public and for the proprietors, until some cause had operated an essential change in the relative value of landed property.

Our country is, however, far removed from that fixed state which alone could justify an attempt to establish a permanent standard of taxation. It may be expected that in some parts the value of lands will decline, in others, it will certainly increase. As no tax on lands occupied for purposes of agriculture can exceed the value of a certain proportion of its produce, it might follow that the resources of the Government would be unreasonably and improperly restricted by the establishment of a permanent rule. On the contrary, frequent valuations are discouraging to improvements, and necessarily occasion the expenses incident to assessment and collection of the revenue to be excessive; such a mean between a permanent rule and annual valuations, therefore, appears to be advisable, as would, on the one hand, produce an apportionment in a great measure corresponding with the actual value of lands, and, on the other, not discourage improvements or inconveniently enhance the expenses of the assessment. A period of not less than ten years nor more than fifteen years, is suggested as a proper medium.

Temporary and perishable improvements, including buildings, do not appear to be proper objects of valuation in the assessment of a tax on lands.

The expediency of a tax on unimproved lands is at least doubtful; being absolutely unproductive, the capital advanced by the proprietors can only be considered as a species of loan, to be reimbursed at a future period, or as an expenditure for the purpose of commencing settlements. Large tracts of land are held by persons whose only object in making purchases was the investment of capital with a view to security, and to the profit expected from future sales; perhaps equal quantities in the aggregate are held in small portions, which were purchased with a view to actual improvements.

It has been sometimes supposed that taxes on new lands tend to encourage settlements and to promote an equal division of landed property; this opinion has probably been founded on an observation, that wherever considerable taxes have been

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imposed, extensive alienations have followed. The vibrations of price, and consequent speculations and frauds which have been thereby occasioned, have been serious evils. Considering the immense quantities of new lands in this country, there is no hazard in affirming that monopolies, for any considerable time, are utterly impracticable; though, in particular places, proprietors of extensive tracts may counteract settlements, yet it will more frequently happen that the competitions between sellers of lands will be decidedly favorable to purchasers; in general, proprietors will, from views of private interest, be active encouragers of new settlements.

The greatest obstacles to the vigorous and successful prosecution of new settlements arise from the general poverty of the first cultivators, and the hardships which they are obliged to encounter. It is the policy of individuals who are desirous of promoting settlements, and who are able to command capital, to diminish these inconveniences as much as possible. Not unfrequently, the first improvements are made at the expense of proprietors other than actual settlers. When this is not done, the necessity of an advance, which would diminish the stock of the cultivator, is obviated by sales of land on credit for a term of years. Taxes on new settlements create a demand for capital; their tendency must be disadvantageous to the poor and favorable to the wealthy; they may, indeed, operate to the benefit of one description of capitalists and to the injury of another, but it is believed that an impartial appeal to experience will demonstrate that, wherever taxes have been imposed for other than local purposes, immediately beneficial to new settlements, they have produced an accumulation, not a division of landed property.

But, though it appears to be inexpedient to extend the proposed tax to unimproved lands generally, it will not be possible to exempt them in all situations, without relinquishing that criterion for regulating the accounts of the revenue, which would result from an ascertainment of the quantities of lands within the districts to which the tax may be extended. As being a medium most consistent with equity and the security of the revenue, it is proposed that the law should define the limits to which the sphere of taxation shall be extended, and that it should prescribe a maximum of value, above which unimproved and unenclosed lands shall not be valued, in certain districts, to be defined.

It appears to be proper that all lands belonging to corporations or individuals, which are or shall be permanently exempted from taxation by the laws of the States, respectively, should also be exempted by the United States.

*6th. Taxes on houses.*

In a scientific view, a tax on houses can only be considered as a tax on expense, and in no sense as a tax on capital or revenue; whether a tax of this nature be imposed on the landlord, builder, or tenant, it must, under the operation of a permanent system, finally fall entirely upon the tenant. Per-

manency and immobility are the only properties which distinguish houses from those objects of taxation which are universally considered as manufactures and consumable commodities. It is, indeed, the tendency of these properties to protract a readjustment of the natural relations between price and value, supply and demand, whenever they happen to be varied by taxation, or any other cause; they are, however, deemed insufficient to change the definition and nature of the subject.

Houses, therefore, being, in respect to their occupants, unproductive objects, and, in a fiscal view, mere indices of expense, the expediency of subjecting them to direct taxation is somewhat questionable.

It is conceived that the houses and other buildings of the great body of farmers and laborers of a country ought to be regarded as objects of necessary expense, which are supported out of the profits of labor, or some other productive fund. Houses of this description are not, therefore, the most eligible objects of public revenue. If the tax were imposed by an uniform rule, its operation would not be materially different from an equal capitation; if imposed according to the value of the building, it would be very unequal in respect to the revenue of individuals, and would, moreover, tend to discourage durable improvements.

Such houses, however, as exceed in value the average of those occupied by farmers and laborers, may be regarded as among the most suitable objects of taxation. Perhaps there is no single criterion by which the comparative expenses of individuals can be so fairly estimated as by their dwellings. The assessment of a tax upon certain descriptions of houses only, unless restrained by legal provisions, might, however, be attended with difficulties arising from the danger of prejudice and partiality on a subject where no sense of a common interest would operate to prevent abuses.

As a security against oppression, it is proposed that the law should declare that houses, with the lots upon which they are erected, not exceeding two acres in any case, and not exceeding a certain value, to be defined in respect to each State, shall be wholly exempted.

It is further proposed that all houses and lots exceeding in value the description to be exempted should be distributed into three classes, with reference to their value, to be taxed uniformly in each class, at specific rates, to be prescribed by law.

By this mode, all uncertainty in the assessment, except that of determining the class in which a house ought to be placed, would be obviated, and this, in respect to so small a number as four classes would not be very considerable.

The Secretary is not possessed of sufficient information to be enabled to suggest limitations of value, by which it may be proper to define the proposed classes. This defect, it is presumed, can be readily supplied by the Representatives of the respective States.

*Direct Taxes.*7th. *Taxes on slaves.*

It has been remarked that taxes on slaves are of a nature essentially different from capitation taxes on freemen, with which they are sometimes confounded. Among the strong circumstances of discrimination which confirm this position, it is barely necessary to mention that slaves are generally incapable of performing any other than the most simple operations of agricultural labor; that they exercise no volition or choice respecting the nature of their employments; and that their condition is neither depressed nor ameliorated by the operation of taxes, which fall invariably on their proprietors, in the same manner as taxes on the stock and produce of farms.

The circumstances alluded to, considered in connexion with the uncertainty and expense which repeated assessments would occasion, afford sufficient arguments to justify an exemption of slaves from taxation, were it not that they contribute very considerably to increase the quotas of several of the States. To exempt a species of property which enhances the proportions of several States, and thus to relieve one class of landed proprietors at the immediate expense of another, does not appear to be equitable. On this ground, such a tax on slaves as may be sufficient to correct what would otherwise be an inequality, appears to be advisable.

The Secretary is not sufficiently informed to be able to express an opinion respecting a suitable rule of assessment; it is important, however, that the rule should be uniform, even though it should, on that account, be rendered somewhat unequal.

It does not appear expedient that the proposed direct tax should be extended to any other objects than have been mentioned. These are as follow:

1st. Lands, which it is proposed should be taxed *ad valorem*, but under limitations, to be prescribed by law, in respect to the estimated value of unenclosed and unimproved lands, in districts to be defined.

2d. Houses exceeding in value those most generally occupied by famers and laborers; which are proposed to be distributed, in each of the States, into three classes, with reference to their value; to be taxed uniformly in each class, at specific rates, to be prescribed by law.

3d. Slaves in general, or of such descriptions as shall be determined by law, to be taxed at one uniform rate.

The particular exposition which has been given of the laws of the respective States will, it is presumed, supersede the necessity of detailing, at length, a plan of assessment and collection. If it shall be determined to adopt the systems of the States in respect to objects of taxation, there can remain but little doubt of the expediency of adopting their modes of collection. In this case, nothing more can with safety be attempted than to reenact the State laws, with suitable provisions for the appointment of officers, for defining their powers and duties, and securing their responsibility to the United States. To this general observation the following exceptions, however, occur:

1st. It will be necessary either to apportion the quotas of counties in the States of New York and Pennsylvania by a conjectural estimate, or to provide for new valuations or assessments, by which to ascertain the said quotas.

2d. Instead of prescribing by law the specific rates at which different articles shall be taxed, as has been usual in the States southward of Pennsylvania and Delaware, it will, in respect to the said States, be necessary to vest a power for determining the proportional rates of each description of taxable articles, as soon as the quantities thereof shall have been ascertained by assessing officers. The necessity of vesting such a power arises from the impossibility of otherwise determining what rates of taxation would be necessary, in order to produce the sums which may be apportioned.

3d. If it shall not be seasonably ascertained that the State of Tennessee has established some general rule of taxation, it will be necessary that suitable provision be made for assessing and collecting the sum which may be apportioned to that State.

If, on the other hand, it shall be determined to establish a uniform mode of taxation for the United States, it is conceived that an eligible plan of assessment can be easily extracted from the acts of New Hampshire, Massachusetts, Pennsylvania, Delaware, Maryland, and Virginia, of which a summary has already been given.

The principal objects to be attained are:

1st. An impartial estimate of the relative value of the different tracts of land in each State.

2d. A correct register of the quantities of taxable lands in each collection district.

The result being an ascertainment of quantities and value, would afford all the data necessary to insure a faithful collection.

It is in respect to the value of lands only, that any real difficulties could arise; disputes with respect to the quantity being susceptible of certain adjustment.

No more eligible mode occurs, for obtaining a correct valuation and register of taxable lands, than by the appointment of commissioners for each State, with the power of appointing a suitable number of assessors, and of requiring a disclosure of the quantities of lands possessed by individuals.

As the Constitution has established a rule of apportionment, there appears to be no necessity that the principles of valuation should be uniform in all the States. It is certain that the records and documents which are known to be attainable, would exceedingly facilitate the adoption of principles for determining the relative value of lands in different districts of the same State. A provision for correcting errors in individual assessments, by some tribunal superior to the assessors, will be necessary.

The assessments on houses and on slaves may, in like manner, be under the direction of commissioners in the first instance; but, as these objects are of a temporary and variable nature, it will be proper that the accounts should be kept distinct from those of lands.

The assessments of the proposed tax will neces-



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sarily be attended, in the first instance, with considerable difficulty and expense; the experience of the States proves, however, that the measure is by no means impracticable. It is certain that a rule of taxation for lands, at once uniform, and at least as equitable as the systems of the several States, may be established. If the necessity of repeated assessments for every tax can be avoided, the expenses of collection, after the first year, may probably be reduced to one half of the sum estimated as the average defalcations incident to the State revenues.

The superintendence of the proposed tax, after the first valuations and assessments have been made, may be committed to the supervisors and inspectors of the existing internal revenues, under the direction of the Treasury. The collection districts may be of the same extent as those already established in the respective States.

It is proposed that competent salaries should be established for the supervisors and inspectors, with suitable allowances for the hire of clerks. The compensations of collectors may be a certain percentage on the sums which they receive, except that when moneys are collected by distress, it will be advisable to authorize the collection of fees and mileage from delinquents. An authority to demand a suitable fee for recording transfers and distributions of assessments on lands, appears to be a proper mode of compensating the persons entrusted with that service.

The power of appointing collectors, under suitable conditions for securing their accountability, may be committed to the supervisors; that of controlling the accounts of assessment, and regulating the distribution of taxes, in consequence of the alienation of property, may be entrusted to the inspectors of surveys and their deputies.

All which is respectfully submitted.

OLIVER WOLCOTT, JR.,  
*Secretary of the Treasury.*

TREASURY DEPARTMENT, Dec. 13, 1796.

[The tables referred to are omitted.]

### FRENCH AFFAIRS.

[Documents communicated to Congress, with the President's Message of Jan. 19, 1797.]

From Mr. Pickering, *Secretary of State, to Mr. Pinckney, Plenipotentiary of the United States, at Paris.*

DEPARTMENT OF STATE, Jan. 16, 1797.

SIR: In my letters of the 5th and 26th November, I sent you two notes from Mr. Adet, the Minister of the French Republic to the United States; the former dated the 27th of October, and the other the 15th of November last; and my answer to the first: the latter note embracing numerous topics of complaint, and going as far back as the year 1793, required a particular examination of all the transactions of our Government from that time to the present. The other indispensable duties of the office prevented my entering on this

examination as early as I had expected, and the current business has retarded the pursuit. The result of this examination I am now, by the direction of the President of the United States, to communicate to you. This history of our affairs you will find supported by documents, many of which were delivered to you at your departure, and the residue will be herewith transmitted. The remarks and reasonings on facts you will duly appreciate; and from the whole, joined with your own observations, you will be enabled, it is believed, to vindicate the United States, and to demonstrate their impartiality as a neutral nation, their fidelity in the observation of Treaties, and their friendship as an ally.

The discussion on which I am entering will involve much repetition; for the general questions and particular cases grouped together in the Minister's last note, have been subjects of controversy and correspondence from May, 1793, to this day. Some other points have indeed been contended for, which the Minister has now passed without notice. Why they are omitted I know not; for in these cases the United States were as positively charged with violating Treaties as in those which he has been pleased now to detail. Some of them it may be found proper to introduce, to render less imperfect the view of our relations to France.

The complaints of the French Minister against the United States have reference to three principal subjects.

1. To the abandonment of their neutral rights to the injury of France, in not maintaining the pretended principles of the modern Law of Nations, that *free ships make free goods*; and that timber and naval stores for the equipment and armament of vessels, are not contraband of war.

2. To violations of our Treaties with France, even in their letter.

3. To the Treaty of Amity and Commerce between the United States and Great Britain; which he alleges "deprives France of all the advantages stipulated in a previous Treaty." A fourth complaint is truly ingenious. The fortune of war has constrained some of the belligerent Powers, from enemies, to become her allies; and if the alleged abandonment of the rules of the modern Law of Nations, in its consequences, works an injury to those allies, from that moment France is also injured. Perhaps it will be in time to notice this last charge when those allies themselves complain; if the answer to the first, involving the same principle, should not render such notice altogether unnecessary.

I shall now present to your view those facts and observations which will prove, we conceive, that the Minister's complaints are without any just foundation.

Under the first charge, that we have not maintained, as we ought to have done, our neutral rights, it is alleged—

1. That the position, that free ships make free goods, is an established principle of the modern Law of Nations, and that Great Britain, by capturing French property on board our vessels, has

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violated our neutral rights; and that unless we compel Great Britain to respect those rights, France will be justified in violating them.

Not to remark on the singular reasoning, that if one warring Power commits an act of injustice towards a neutral and innocent nation, another warring Power may lawfully commit the like injustice, we may ask what authority is adduced, to show that the modern Law of Nations has established the principle, that free ships make free goods? *Vattel* says, positively, "That effects belonging to an enemy found on board a neutral ship, are seizable by the rights of war."\* Agreeably to this long established rule of the Law of Nations, France herself, in her marine laws, has directed that "the merchandises and effects belonging to her enemies, which shall be found on board neutral vessels, shall be good prize."† By a former law, indeed, the neutral vessels themselves, as well as the effects of her enemies on board, were declared to be good prize." ‡ *Valin* remarks, however, that this regulation was peculiar to France and Spain; and that elsewhere the goods of the enemy were alone subjected to confiscation. And in the Treaty of France with the city of Hamburg, in 1769, it was stipulated, that "All effects, provisions, and merchandise whatsoever, belonging to her enemies and found on board the vessels of Hamburg, should be confiscated."

Mr. Adet remarks, that one of his predecessors, in July, 1793, applied on this subject to the Government of the United States; but was unsuccessful. He must refer to Mr. Genet's letter to Mr. Jefferson, dated July 9th, 1793,§ [the subject was resumed in terms still more extraordinary in his letter of July 25, 1793,] to which Mr. JEFFERSON answered on the 24th, declaring "his belief that it cannot be doubted, but that by the general Law of Nations, the goods of a friend found in the vessel of an enemy, are free, and the goods of an enemy found in the vessel of a friend, are lawful prize." "It is true that sundry nations, desirous of avoiding the inconveniences of having their vessels stopped at sea, ransacked, carried into port and detained, under pretence of having enemy goods on board, have, in many instances, introduced, by their special Treaties, another principle between them, that enemy bottoms shall make enemy goods, and friendly bottoms friendly goods; but this is altogether the effect of particular Treaty, controlling in special cases, the general principle of the Law of Nations, and therefore taking effect between such nations only as have so agreed to control it." And it is plain, that it was to avoid the inconveniences resulting from this general rule of the Law of Nations that France and the United States stipulated, in the 23d article of their Commercial Treaty, "That free ships should give freedom to goods; and that everything should be deemed free which should be found on board the ships belonging to the subjects of either of

the contracting parties, although the whole lading, or any part thereof, should appertain to the enemies of either, contraband goods being always excepted." It is also plain, that this stipulation was intended to operate (indeed it was its sole object and otherwise could have no operation at all) when one of the parties should be at war with a nation or nations with whom the other should be at peace. France, therefore, has now no right to complain if the goods of her enemies find protection on board American ships, or to pretend, that in order "to restore the balance of neutrality to its equilibrium," she may seize on such goods: the just equilibrium between her and the United States will be restored when we are at war and she at peace; at which time the goods of our enemies will find protection on board the vessels of her citizens.

2. It is alleged that we have abandoned the modern public law on contraband, and by our Treaty with Great Britain, granted to that Power, exclusively, the free carriage of articles for the equipment and armament of vessels.

Here, as in the former case, the question recurs, what is the Law of Nations on the point in dispute? \**Vattel* defines contraband goods to be "commodities particularly used in war; such are arms, military, and naval stores, timber, horses, and even provisions in certain junctures, when there are hopes of reducing the enemy by famine." In the Treaty between France and Denmark, concluded on the 23d of August, 1742†, "tar was declared contraband, together with rosin, sails, hemp, cordage, masts, and timber for ship building." "Thus, on this account, (says *Valin*) there would have been no cause for complaining of the conduct of the English, if they had not infringed particular Treaties; for of right these things are now contraband, and have been so since the beginning of this century, which however, was not the case formerly." "The modern public law on contraband," mentioned by Mr. Adet and his predecessors, probably refers to the principles declared by the armed neutrality during the American war. This transaction is too remarkable to be passed unnoticed.

During that war, Great Britain and the other belligerent Powers, exercising the rights assured to them by the Law of Nations, made prize of enemies' property on board neutral vessels, and of contraband goods belonging to neutrals. Eager as neutral nations must be to seize the opportunity which war presents, of becoming the carriers for the belligerent nations, whose ships and mariners are wanted for military operations, it was perfectly natural that the former should desire to establish as a rule, that free ships should make free goods; or, in other words, that neutral bottoms should protect the goods on board to whomsoever these belonged; and it was equally natural for them to desire to diminish the list of contraband. In respect to the latter it must have been particularly interesting to the three Northern maritime Powers, from whose dominions chiefly

\* Book 3, sec. 115. † *Valin*, page 250, Reg. Oct. 21, 1744, art. 5.  
‡ *Valin*, vol. 2, pages 252, 253. § State Papers, pages 50, 53, 55.

\* Book 7, sec. 112.

† *Valin*, vol. 2, page 264.

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the other maritime nations of Europe received supplies of timber and naval stores, to strike these from the list of contraband, or by some means to exempt them from capture.

With these dispositions, the Empress of Russia, in February, 1780, made public the principles on which she would maintain the commerce of her subjects. It is necessary here to recite only two of them. 1. That all the effects belonging to subjects of the nations at war should be free on board neutral vessels; contraband goods excepted. 2. That the articles of contraband should be regulated by the 10th and 11th articles of her Treaty of Commerce with Great Britain, extending the regulations of those articles to all the belligerent Powers. To enforce the observance of these principles, she gave orders for equipping a considerable part of her marine.

In July of the same year, Denmark acceded to the principles of the armed neutrality, and entered into a convention with Russia for maintaining them, assuming for her rule in determining what articles should be deemed contraband, her Treaty of Commerce with Great Britain, concluded the 11th of July, 1670. In the third article of this Treaty, the description of contraband goods is in general terms: "Any provisions of war, as soldiers, arms, machines, cannon, ships, or other things of necessary use in war." But, by a convention concluded at London on the 4th of July, 1780, between Great Britain and Denmark, "to explain the Treaty of Commerce of 1670, between the two Powers," the articles deemed contraband are particularly enumerated, and among them we see "timber for ship-building, tar, rosin, copper in sheets, sails, hemp, and cordage, and generally whatever serves directly for the equipment of a vessel, unwrought iron and fir-planks excepted." It is remarkable that these are the very articles admitted as contraband in the 18th article of our Treaty of Commerce with Great Britain, and for which admission Mr. Adet declares, "all the commercial relations between France and the United States are entirely broken."

But it is further to be noticed, that this convention between Russia and Denmark, concluded in the midst of the American war, for maintaining the principles of the armed neutrality, and to which other European Powers acceded, is explicitly declared, in the 9th article, to have been concluded and agreed on for the time that war should last;\* though it was to serve as a basis to future engagements which circumstances might render necessary, on account of new naval wars in Europe; and with the latter view, the King of Sweden manifested the utmost solicitude lest the war should be closed without the intervention of the neutral Powers. He, therefore, was urgent that the Empress, with all the parties to the Maritime Convention, "should propose to the belligerent Powers the establishing of a Congress, in which the different concerns, both of the Powers at war and of the neutral States, should be

examined and terminated."\* And these concerns he afterwards mentions to be "the pacification, and the settling of a maritime code of laws," objects truly important, and meriting all the solicitude manifested on the occasion by the King.

But these steps of the King of Sweden serve as additional proofs that the principles of the armed neutrality were not considered by the parties to the Maritime Convention, as sanctioned by the existing Law of Nations. For permanently to establish those assumed principles, by introducing them into a maritime code, was obviously the influential motive with the King for desiring a Congress, at which such a code might be settled with the assent of all the nations of Europe. But this project did not succeed; no Congress was formed; the belligerent Powers made peace at different periods, and with that war ended the Maritime Convention. This no nation has more reason to regret than our own, as well because the principles in question respect some very valuable portions of our exports, as because our disposition and our policy preserving us in peace, such an extended liberty of commerce would prove highly advantageous to us as carriers for the Powers at war.

We have seen, then, that the Law of Nations, the marine laws of France, her own Treaties, as well as those of other nations, and even the system of the armed neutrality, incontestably establish these principles: That enemies' goods on board neutral vessels are rightful subjects of capture and condemnation; and that timber and other articles for the equipment and armament of ships, are contraband of war: and, therefore, that the admission of these principles in the Treaty between the United States and Great Britain, not being a grant to her of any right (for in what sense could we be said to give what she before possessed?) furnishes no just ground of offence to France. In what sense, too, can the United States be said to have "refused to other nations a right" which they and we voluntarily and mutually agreed to renounce? Or how are we chargeable with "partiality in favor of England," because we do not take arms to compel her also to renounce it?

But Mr. Adet, still resting on the idea that not to compel Great Britain to renounce, is to grant her a right, seems to imagine that we shall attempt to obviate his complaints by saying "That France, having the right by her Treaty of 1778, to enjoy all the advantages in commerce and navigation which the United States have granted to England, is not injured by the stipulations of the Treaty of 1794 (with Great Britain) relative to contraband of war, as they become common to her." But we shall say no such thing. The second article to which he refers has no relation to this subject. Had we granted any particular favor to Great Britain, or to any other nation in respect to commerce and navigation, we readily admit that, by this article, France would be immediately entitled to the same. But in regard to

\* Hist. Armed Neutrality, p. 77. Marten's Treaties, vol. 2, p. 103.

\* History Armed Neutrality, pages 147, 150.

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contraband of war, we have granted nothing, and therefore, under that article, France can claim nothing.

Under the influence of present and temporary interests, the very nature of the stipulations between France and the United States, on the subject of free commerce and the limitation of contraband, seems to be forgotten. They took for the basis of their Treaty "the most perfect equality and reciprocity:" would they then conspire to their own hurt? Would they voluntarily and mutually stipulate for injuries? or for advantages? Certainly the latter; and both considered the agreement reciprocally advantageous which secured to each, in its turn, the freedom of commerce provided by the rules, that free ships should make free goods; and that timber and naval stores should be excluded from the list of contraband.

Connected with this subject is what concerns the article of provisions. Mr. Adet says, that "after having assured to the English the carriage of naval stores, the Federal Government wished to assure them that of meals; in a word, it desired to have commerce only with England." Thus it stipulates by the 18th article, that the American vessels laden with grain may be seized under the frivolous pretext, that it is extremely difficult to define the cases wherein provisions, and other articles, which are generally excepted, could be classed in the list of contraband of war."

There are so many extraordinary assertions in Mr. Adet's notes, those in the above paragraph excite no surprise. The Federal Government is constituted of citizens who have a common interest with their fellow-citizens of the United States. That common interest has a peculiar relation to commerce, on the freedom and extension of which the public revenue and the general prosperity of our country chiefly depend. Will it then be believed that the Government wished this commerce to be restrained, particularly the commerce in meals, which compose the most valuable parts of our exports? Especially, will it be believed that the Government desired that our citizens might have commerce only with England? Let the general sense of our fellow-citizens answer these charges. Let the great mass of our commercial brethren answer; they whose enterprise traverses every sea and explores every region of the globe, to extend their gainful trade; citizens whose commercial adventures to France and her colonies have risen annually to many millions; adventures by which many have hazarded their credit and their fortunes. Yet among all our citizens, none have been more solicitous to form a Commercial Treaty with Britain; none more decided in approving that which has been made.

For the reasoning of our own Government on this subject, I beg leave to refer you to my letter of September 12, 1795, written by the President's direction to Mr. Monroe. Therein it was attempted to show the necessity and our right of forming that Treaty with Great Britain, and I hope it will appear to you that the conclusion is there fairly drawn, that even the 18th article, as

it respects provisions, would operate favorably to France.

Before the Treaty with Great Britain, her cruizers captured neutral vessels bound to France with provisions. She asserted, that in certain cases, provisions were contraband of war; consequently, that she might lawfully capture and confiscate such provisions. We opposed the principle and the practice. Britain insisted on her right. In this dilemma, it was agreed by the Treaty, that whenever provisions, becoming contraband by the Law of Nations, should be captured, they should be paid for with a reasonable mercantile profit. This stipulation, without admitting the principle, by securing the American merchants from loss in case of capture, would certainly tend to promote rather than to discourage adventures in provisions to France.

But as this Treaty has been the subject of serious complaint on the part of France, it is important to inquire with what foundation the complaint is made.

I might pass over the unworthy insinuations of the Minister, that the Treaty was entered into by us in order to insure advantages to the English, and to furnish our own Government with a reply to the claims of France, and peremptory motives for refusals to concede to them; that the true object of the negotiation was incessantly disguised under specious pretexts, and covered with the veil of dissimulation. These insinuations have been indiscreetly addressed to the people of the United States. They will gain no belief. It may, however, be useful for you to be truly informed on this subject.

The President's Message to the Senate on the 16th of April, 1794, does not declare (as Mr. Adet asserts) "that Mr. Jay was sent to London *only* to obtain a redress of wrongs." The President says, that Mr. Jay's mission would announce to the world "a solicitude for a friendly adjustment of our complaints," and that "going immediately from the United States, such an Envoy would carry with him a full knowledge of the existing temper and sensibility of our country; and thus be taught to vindicate our rights with firmness, and to cultivate peace with sincerity." And shall the pursuit of either of these objects be denied to us? What were our complaints? The most urgent regarded the spoiliations on our commerce, and the inexecution of the article of the Treaty of Peace respecting the posts. With the latter was connected the Indian war, with which we had been harassed for so many years; and with the former, the injury or ruin of our merchants, and the consequent extensive damages to agriculture. These being the most prominent objects of the mission, were, of course, most observable and most talked of; and without them the mission, probably, would not at that time have been contemplated. But had we no other "complaints?" Did not the impressment of our seamen, like the spoiliations on our commerce, excite a universal complaint? Had we never manifested our uneasiness at Great Britain's avoiding a commercial Treaty? Was it not even a subject of complaint

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and reproach? Was not the inducing her to enter into such a Treaty the object of divers measures agitated in Congress? Had not a commercial Treaty with Great Britain been earnestly sought for from the conclusion of the war to the time of Mr. Jay's mission? How, also, could Mr. Jay, after adjusting the primary objects of his mission, better prove the sincerity of our pacific disposition, and more effectually "cultivate peace," than by forming arrangements calculated to extend and protect our trade, to promote good neighborhood and a friendly and mutually beneficial intercourse; by prescribing a previous demand of justice and satisfaction to hasty reprisals, which naturally lead to war; and by agreeing on other regulations to prevent disputes, or to adjust them when they should arise? All these objects, then, and whatever else would be the means of "cultivating peace," were clearly comprehended in the President's Message.

But Mr. Adet says, "that Mr. Jay's negotiation was enveloped from its origin in the shadow of 'mystery.'" And to whom was our Government bound to unveil it? To France or to her Minister? Mr. Adet should answer, or not have complained. And was it for this, to make us a dependence on the French Empire that our alliance was formed? Did we stipulate to submit the exercise of our sovereignty (if it is not a contradiction in terms) to the direction of the Government of France? Let the Treaty itself furnish the answer: "The essential and direct end of the present defensive alliance is to maintain effectually the liberty, sovereignty, and independence, absolute and unlimited, of the said United States, as well in matters of 'government as of commerce.'" So, likewise, the Treaty of Amity and Commerce, in its preamble declares, that his most Christian Majesty and the United States, willing to fix the rules which ought to be followed relative to the correspondence and commerce which they desire to establish between their respective countries, have taken "for the basis of their agreement, the most perfect equality and reciprocity; and reserving withal to each party the liberty of admitting at its pleasure other nations to a participation of the same advantages." Corresponding with this declaration in our Treaty of Amity and Commerce with France, is the declaration of the Marquis de Noailles, her Ambassador at the Court of London, on the 13th of March, 1778, five weeks after the Treaty was signed. Some passages in this declaration are so pertinent to the subject in discussion, I shall quote them at length.

"The undersigned Ambassador of his most Christian Majesty, has received express orders to make the following declaration to the Court of London."

"The United States of North America who are in full possession of Independence as pronounced by them on the 4th of July, 1776, having proposed to the King to consolidate, by a formal Convention, the connexion begun to be establish-

ed between the two nations, the respective Plenipotentiaries have signed a Treaty of Friendship and Commerce, designed to serve as a foundation for their mutual good correspondence."

"His Majesty being determined to cultivate the good understanding subsisting between France and Great Britain by every means compatible with his dignity and the good of his subjects, thinks it necessary to make this proceeding known to the Court of London, and to declare, at the same time, that the contracting parties have paid great attention not to stipulate any exclusive advantages in favor of the French nation, and that the United States have reserved the liberty of treating with every nation whatever upon the same footing of equality and reciprocity." Why, after all this, do we hear from Mr. Adet the complaint, that the negotiations of the British Treaty were secretly conducted? In other words, that in exercising their absolute and unlimited rights of "Government and Commerce" the United States did not lay open to the French Minister or his Government the instructions to our Envoy for settling our own disputes and regulating our own commerce with Great Britain? So far as candor and friendship required, a communication was made to the French Minister. He was officially informed "that Mr. Jay was instructed not to weaken our engagements to France." This instruction was obeyed: Mr. Jay having taken care to insert in the 25th article of the Treaty this explicit stipulation, that "nothing in this Treaty contained shall be construed or operate contrary to former and existing public Treaties with other Sovereigns or States."

The Government gave a further proof of its candor and friendship, by communicating to the French Minister the Treaty itself, prior to its ratification, "in order to make such observations thereon as he might judge proper." These observations you will see in Mr. Adet's letter to the Secretary of State of June 30th, 1795; and the refutation of his objections in the Secretary's answer, dated the 6th of July following.

With these facts in view, facts of which the chief are drawn from our Treaties with France, and from her own acts and laws, what opinion is to be formed of Mr. Adet's declaration, "That the Executive Directory regards the Treaty of Commerce concluded with Great Britain as a violation of the Treaty made with France in 1778, and equivalent to a Treaty of Alliance with Great Britain?"

I will now advert to the charge, "that far from offering the French the succors which friendship might have given without compromising it, the American Government, in this respect, violated the letter of Treaties."

As far as I can discover, the latter part of this charge is rested wholly on the 17th article of the Commercial Treaty, which, therefore, it will be necessary to examine. The stipulations are mutual; but the examination will be simplified by considering their application to France alone. The 17th article then declares—

1. That the ships of war and privateers of

\* Treaty of Alliance, art. 2.

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France may freely carry the ships and goods, taken from their enemies, into the ports of the United States, without being obliged to pay any fees to the officers of the admiralty or any other Judges.

2. That such prizes are not to be arrested or seized when they enter the ports of the United States.

3. That the officers of the United States shall not make any examination concerning the lawfulness of such prizes: but

4. That they may hoist sail at any time, and depart and carry their prizes to the places expressed in their commissions.

5. That, on the contrary, no shelter or refuge shall be given in the ports of the United States, to such as shall have made prize of the subjects, people or property of France; but if such shall come in, being forced by stress of weather or the danger of the sea; all proper means shall be vigorously used that they go out and retire thence as soon as possible.

It will also be convenient here to notice the stipulations contained in the 22d article. These are—

1. That foreign privateers not belonging to French subjects or citizens, having commissions from any other Prince or State in enmity with France, shall not fit their ships in the ports of the United States.

2. Nor sell their prizes, nor in any other manner exchange their ships, merchandises, or any other lading.

3. Nor purchase victuals, except such as shall be necessary for their going to the nearest port of the Prince or State from which they have commissions.

The cases that have occurred in the course of the present war, in relation to our Treaty with France, particularly the 17th and 22d articles just mentioned, have led to numerous discussions, in which several points have been deliberately settled, either by Legislative or Executive acts, or by judicial decisions.

The first important Executive act was the proclamation of neutrality by the President of the United States. This was issued on the 22d of April, 1793.

At the next meeting of Congress, on the 3d of December, 1793, the President laid this proclamation before both Houses. The Senate, in their address, in answer to the President's Speech, thus express their opinion of the proclamation:

"We deem it a measure well-timed and wise; manifesting a watchful solicitude for the welfare of the nation, and calculated to promote it."

The address of the House of Representatives was unanimously agreed to. We read in it this paragraph:

"The United States having taken no part in the war which had embraced, in Europe, the Powers with whom they have the most extensive relations, the maintenance of peace was justly to be regarded as one of the most important duties of the magistrate charged with the faithful execution of the laws. We accordingly witness, with

'approbation and pleasure, the vigilance with which you have guarded against an interruption of that blessing, by your proclamation, admonishing our citizens of the consequences of illicit or hostile acts towards the belligerent parties; and promoting, by a declaration of the existing legal state of things, an easier admission of our right to the immunities belonging to our situation."

Yet this is the instrument, thus approved by Congress, and whose only object was to caution our citizens to avoid certain acts which would violate the Laws of Nations, which Mr. Adet has ventured to call "An insidious proclamation of 'neutrality!'"

The next Executive act noticed by Mr. Adet, is the letter of the 4th of August, 1793, written by the President's command, by the Secretary of the Treasury, to the collectors of the customs, and accompanied by the rules which the President had adopted, for preventing all armaments in favour of any of the belligerent Powers. These rules were considered as just and necessary deductions from the laws of neutrality established and received among nations. The letter from the Secretary of the Treasury is explanatory of these rules, and, among other instructions, particularly points the collectors to the 17th and 22d articles of our Treaty with France; lest, by inattention or misconception of them, she might be injured and her enemies benefitted. The letter concludes, with enjoining the collectors to execute those instructions "with vigilance, care, activity, and impartiality, because omissions would tend to expose the Government to injurious imputations and suspicions, and proportionably to commit the good faith and peace of the country." How could such rules, with such reasons to enforce them, not escape censure? They were framed and required to be executed with strict impartiality; and, consequently, were to prevent Frenchmen continuing those aggressions on our sovereignty and neutrality, which had been commenced under Mr. Genet's orders, and which were calculated to involve us in a war with Britain, Spain, and Holland; for at that time these were all combined against France. Frenchmen were to have no other preferences than those secured to them by Treaty; (except that they were not forbidden to sell their lawful prizes in our ports,) and our own citizens were to be restrained from committing hostilities under the banners of France, as well as those of other Powers.

The third offensive act was the President's submitting to Congress these measures, and suggesting the expediency of extending our legal code, giving competent jurisdiction to the courts, and providing adequate penalties to prevent or punish violations of the Laws of Nations.

The next complaint respects the act of Congress passed on the 5th of June, 1794, "for the punishment of certain crimes against the United States;" being those to which their attention had been called by the President's Speech. Mr. Adet asks, "what was its result?" And gives, himself, the following answer: "In consequence



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of this law, the greater part of the French privateers have been arrested, as well as their prizes; not upon formal depositions, not upon established testimony, not upon a necessary body of proofs, but upon the simple information of the consul of one of the Powers at war with the French Republic; frequently upon that of sailors of the enemy-Powers: sometimes, according to the orders of the Governors, but often upon the demand of the district attorneys, who assert, upon principles avowed by the Government, that their conviction was sufficient to authorize them, without complaint or regular information, to cause the privateers to be prosecuted in virtue of the law above mentioned. And when the Ministers of the Republic have asked for justice of the Government, for the vexations experienced by the privateers, in contempt of the 17th article of the Treaty, they have never been able to obtain satisfaction."

Judging only by these declarations of Mr. Adet, a stranger would imagine there had been a combination of the General and State Governments, and of our courts, to harass and do injustice to Frenchmen engaged in privateering. But our citizens place a different estimate on this impeachment of their President, their Senators and Representatives in Congress, their judges and other public officers; and an examination of the cases cited by Mr. Adet to support his assertions, will manifest their incorrectness.

1ST CASE. *The French privateer Sans Pareil and her prize the Perseverance.*

On the 26th August, 1794, Mr. Fauchet complained, that the prize had been seized on the pretext that the Sans Pareil had been illegally armed in the United States. The answer of September 3d, from the Secretary of State, which Mr. Adet censures "as indicative of delay," assured him that the Secretary had urged the Governor of Rhode Island, where the prize was carried, to report the circumstances of the case without delay. On the 27th of September, the Secretary informed Mr. Fauchet that the Governor had decided that the prize should be restored. On the 17th of October, Mr. Fauchet renewed his complaint, for, on the suit of the claimant, the prize had again been arrested by process from the district court. The Secretary of State answered, on the 22d, with information that ought to have satisfied Mr. Fauchet. For admitting that, agreeably to the law of the 5th of June, 1794, the courts had authority and were bound in duty to take cognizance of captures made within the jurisdiction of the United States, or by privateers illegally fitted out in their ports, (the right of doing which Mr. Fauchet did not contest,) they could not refuse it in the case of the Sans Pareil; the guard against vexatious prosecutions being the judgment for costs and damages, to which an unjust prosecutor is exposed. The circular letter, written on this occasion to the Governors of States, manifests the solicitude of our Government to prevent vexatious suits.

2D CASE. *Glass and Gibbs.*

By the copy of the proceedings in the Supreme Court of the United States in this case, you will see that the court did not, as stated by Mr. Adet, determine "that the tribunals could decide whether a prize belonged to enemies or to neutrals." The question before the court was of the cognizance of a captured vessel and cargo, the former the property of a Swede, and the latter belonging partly to some Swedes and partly to a citizen of the United States. The opinion, therefore, pronounced by the Supreme Court, applied to the case in which one of the claimants was a citizen of the United States. And, after solemn argument, the court decided "that the district court of Maryland had jurisdiction, and should accordingly proceed to determine upon this case agreeably to law and right."

I will add only one more remark: That the 17th article, the letter of which we are charged with violating, in suffering our courts to take cognizance of French prizes, expressly refers to "the ships and goods taken from their enemies;" and it is the "examination concerning the lawfulness of 'such prizes' which the article forbids. But no examination of such prizes had been attempted by our Government or tribunals, unless on clear evidence, or reasonable presumption, that the captures were made in circumstances which amounted to a violation of our sovereignty and territorial rights.

3D CASE. *The French privateer L'Ami de la Point a Petre, Captain William Talbot, and her Dutch prize the Vrouw Christiana Magdalena.*

To the information contained in the papers collected in this case, I have to add that this cause was finally decided in the Supreme Court in August term, 1795. The court were unanimously of opinion that, in the particular circumstances of Talbot's case, notwithstanding his French commission, and his taking an oath of allegiance to the French Republic, he continued to be a citizen of the United States. But the cause, as I am informed, did not appear to have turned on this point. Talbot had associated with one Ballard, commanding an armed vessel called the *Ami de la Liberté*, which had been fitted out in the United States, and had no commission. Talbot and Ballard cruised together as consorts; and, in fact, it was Ballard's vessel that took the prize, Talbot not coming up till an hour after the capture. Ballard was afterwards tried, before the circuit court, for piracy.

The court were also of opinion, from the tenor of the evidence, that Talbot's vessel was owned by citizens of the United States, to whom the prize-money would eventually find its way in case of restitution to the captors.

Ballard and Talbot were both citizens of Virginia. The attempt of the latter to become a French citizen was considered to be fraudulent, being made for the sole purpose of obtaining a commission, under color of which he might plun-

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der the subjects of nations with whom the United States were at peace.

An observation ought not to be omitted here, that, although the captors, Talbot and others, had been defeated both in the district and circuit courts, yet they carried the cause up to the Supreme Court; thus using the legal right of appealing to the court in the last resort; a right which, alike exercised by the subjects of Powers who were enemies to France, has formed a principal subject of Mr. Fauchet's and Mr. Adet's continued complaints.

4th. Under the head of complaints for vexatious prosecutions, Mr. Adet mentions only two cases in which damages and interest were allowed to the French captors, viz: one of la nuestra Senora del Carmen, at Rhode Island, and the other of la Princessa des Asturias, at New York. "Yet (says he) the tribunals have always allowed damages to the captured, when they have declared the prizes illegal." How far the facts will warrant this last assertion I am not possessed of documents to determine. I presume it is to be understood in a general sense only, and to admit of exceptions. And in this sense there will be no difficulty in admitting the truth of the assertion, and accounting for it. The captures here referred to, were made either within our jurisdictional line, or by illegal privateers, being such as were equipped in whole or in part, in the ports of the United States. Of these material facts the captors could not be ignorant, consequently they could have no apology for defending their unjust claims in our courts; and of course were justly condemned in costs and damages.

In the case of the prizes of the privateer the Citizen of Marseilles, damages were claimed by the captors, but denied. For those prizes had been considered in the district court to be illegal. And although the sentence of that court was reversed in the circuit court, yet it was upon the introduction of new testimony on the part of the captors. This last decision was affirmed in the Supreme Court, yet without damages; inasmuch as the testimony was considered to be so ambiguous as to justify the appeal.

The same remarks apply to the prizes of the privateer General Lavaux; with this addition, that one of the judges dissented from the opinion of the court, being firmly of opinion that this privateer was covered American property.

The privateer la Parisienne had been registered as an American coasting vessel, under the name of the Hawk. During the embargo, in the Spring of 1794, she slipped out of Charleston and went to Port de Paix, where she was sold to one Blochos, a Frenchman, who armed her and provided her with a commission. Having afterwards arrived at Charleston, she was recognised and prosecuted for a breach of the revenue laws, in having gone to a foreign port whilst she was in the legal predicament of a coaster. The district court condemned her; but, on the application of Blochos to have her restored on paying the appraised value, the judge permitted him to take her, in a state of warlike equipment. Shortly

afterwards she put to sea and captured two valuable British prizes, the brigantines Cæsar and Favorite. On their arrival, the one at Charleston, the other at Savannah, suits were commenced to obtain their restitution, as having been captured by an illegal privateer. The decrees of the courts were in favor of the captors, but without damages. The Supreme Court disapproved of the restitution of the privateer without dismantling her; and considered the mistake committed in this respect a sufficient reason to cover the party prosecuting from the payment of damages.

All the other cases of captures by French privateers, which have been brought up to the Supreme Court, were decided at last August term. In some of them the circumstances would not have warranted an award of damages; in others, the counsel for the captors omitted to ask for them. When demanded, you know that it is in the discretion of the court to grant or refuse them; this discretion being regulated by all the circumstances of each case. Hence, when a party is drawn before the court without good cause and vexatiously, damages are always given, but are denied when there appears a reasonable cause of controversy.

5th. Mr. Adet having briefly noticed several cases by name, seems to reserve those of the Vengeance and the Cassius for a full display of unwarrantable conduct in the Government and Courts of the United States, and therefore descants on them at some length; but with so many aberrations from the facts, with so many erroneous ideas concerning our jurisprudence, and so many injurious insinuations respecting our courts and their officers, it will be necessary that you should learn the true history of these cases from authentic documents.

#### *Case of the French privateer la Vengeance.*

For the full history of this privateer and her prize, I must refer you to the documents in the case. The principal facts are these: About the latter end of June, or the beginning of July, 1795, the privateer la Vengeance arrived at New York with a valuable prize, called Princessa de las Asturias. Don Diego Pintado, the owner, commenced a suit for his vessel, on the ground that she had been taken by an illegal privateer. The suit was instituted by Mr. Troup, not wantonly, but upon information, which was afterwards verified by the oaths of several witnesses. In the progress of the cause, these witnesses were contradicted by the witnesses produced on behalf of the captors, for whom a decree was finally given: the clashing evidence preponderating, in the Judge's opinion, in the favor of the captors; but he expressly declared that there was probable cause for the seizure.

After this suit for the prize had been commenced, the Spanish Consul complained to Mr. Harrison, the District Attorney, in his official capacity, of a violation of law, on the part of the privateer la Vengeance, in consequence of which a Spanish subject had been injured. Mr. Harrison, upon an inquiry, found at least a probability

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that the complaint respecting the privateer was true. This probability arose from what he considered as affording the certainty of material proof; and, therefore, in conformity with his official duty, commenced a prosecution on the act of Congress forbidding the arming of privateers in our ports. The decision of this, and of the prize cause, depended on the same evidence. The decision being in favor of the captors, Mr. Harrison acquiesced in it, as it respected the privateer; and he united with his associate counsel in the prize cause in advising the like submission in that case. But the Spanish Consul deemed it his duty to pursue the claim to the Court in the last resort. This can warrant no complaint; for Mr. Harrison remarks, that perhaps there never were causes in which more contradictory and irreconcilable evidence was offered, and in which the minds of the auditors were more divided as to the real state of facts.

The second public suit against the privateer, was for exporting arms and ammunition from the United States, when such exportation was prohibited by law. The evidence which appeared in the other causes gave rise to this prosecution, and upon the trial the Judge condemned the privateer. An appeal from this sentence was interposed by the French Consul. The appeal was heard in the Circuit Court, and upon new evidence the sentence of the District Court was reversed.

Mr. Adet complains, that while one suit was pending for the prize, and another against the privateer, the District Attorney should exhibit a second information against the privateer, on which she was arrested anew, for having exported arms in violation of a law of the United States, which was in force when the *Vengeance* sailed from New York; and that this information was filed on the simple declaration of Mr. Giles, the Marshal of the Court, who, as informer, was to share part of the confiscation. As Mr. Harrison remarks, it was in favor of the privateer that this second information was filed, while the first was pending; because it saved time. Had he postponed the latter until the first had been decided, there might have been some foundation for a charge of unnecessary delay. Mr. Harrison's statement of the case shows that this second information was not made on the declaration of the Marshal, but on the evidence that appeared on the examination of the first.

Mr. Adet having been pleased to censure the conduct of the attorney, clerk, and Marshal of the District Court of New York, in justice to them, I have added to the other documents in this case the letters of Mr. Harrison and Mr. Troup. They will answer the double purpose of justifying them, and of vindicating our Government and tribunals.

Mr. Adet particularly notices the papers he had received from St. Domingo, "proving," as he says, "in the most convincing manner, that the *Vengeur* (la *Vengeance*) had arrived at Port de 'Paix without any armament or equipment whatever; and that she had been sold, armed, and

'equipped wholly, and commissioned as a privateer, on the territory of the Republic. These documents were certificates of the general, the ordonnateur, and of the greater part of the principal officers of St. Domingo, &c. He hastened to communicate them to the Secretary of State, and to request him to order the attorney of New York district to stay the proceedings instituted in the name of the Government: there was nothing done with them, and Mr. Harrison continued his prosecution." It will appear by my letter of October 1, 1795, to Mr. Harrison, that these papers were sent to him, and by his answer of October 3d, that he received them. That the bill of sale (one of the papers) was produced to the Court, in behalf of the claimant of the privateer; but that the certificate of General Leveaux could not be considered as evidence in the cause; and if it had been admissible, "the claimant would be very cautious of producing it, on account of its differing from the witnesses."

#### 6. Case of the French privateer *le Cassius*.

For the full history of this case I must also refer you to the documents; and here only present you with a concise statement.

The *Cassius*, under the name of *les Jumeaux*, was fitted and armed for a vessel of war in the port of Philadelphia, in violation of a law of the United States. In December, 1794, having escaped from the port to descend the river, orders were given to the militia of the State of Delaware to intercept her. The attempt was made and failed—the crew of *les Jumeaux*, which was unexpectedly found to be very numerous, resisted the officers who went on board, manned their cannon, and brought them to bear on the cutter in which the militia (about forty in number) were embarked. Their force being inadequate to the enterprise, they retired, with the intention to return the next day with a reinforcement. They did so; but *les Jumeaux* had sailed, and gone to sea. The agent (Mr. Guenet) by whom *les Jumeaux* had been fitted out, was tried in the Circuit Court at Philadelphia, convicted of the offence, and received sentence of fine and imprisonment.

*Les Jumeaux* proceeded to St. Domingo. Samuel B. Davis, a citizen of the United States there took the command of her, with a commission from the French Government. Davis probably sailed from Philadelphia in *les Jumeaux*, for the purpose of finally taking the command of her. Her name was now changed to *le Cassius*; and on a cruise she took a schooner called the *William Linsay*, belonging to Messrs. Yard and Ketland, of Philadelphia; Mr. Ketland having purchased an interest in her after her sailing. The schooner and her cargo were condemned as prize at St. Domingo. In August, 1795, Captain Davis, commanding *le Cassius*, came with her to Philadelphia. She was immediately known. Mr. Yard, with a view of obtaining an indemnification for the loss of the schooner and her cargo, libelled *le Cassius* in the District Court, and caused the captain to be arrested. Soon after, the

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Supreme Court being in session, Captain Davis's counsel applied for and obtained a prohibition to the District Court to stop its proceeding; by which the suits both against him and le Cassius were defeated. The prohibition was granted on this principle: that the trial of prizes, taken without the jurisdiction of the United States, and carried into places within the jurisdiction of France, for adjudication, by French vessels, and all questions incidental to it, belong exclusively to the French tribunals; and consequently that its vessels of war and their officers are not liable to the process of our courts, predicated upon such capture and subsequent proceeding within the jurisdiction of the French Government.

Messrs. Yard and Ketland having failed to obtain indemnification in this mode, procured new process on the information of Mr. Ketland, to be issued from the Circuit Court, by which le Cassius was attached as a vessel armed and equipped as a ship of war in the port of Philadelphia, with intent to cruise and commit hostilities against nations with whom the United States were at peace, in violation of the act of Congress prohibiting such armaments. Mr. Adet complained that the process was taken out of the Circuit Court; because, as he alleged, it had no jurisdiction, and that it would be attended with delay, that court sitting but twice a year: whereas the District Court, in which it was said the prosecution (if at all permitted) should have been commenced, was always open. I consulted gentlemen of legal knowledge, on the point of jurisdiction in this case, and they were decided in their opinion, that the Circuit Court had jurisdiction, and exclusively of the District Court. You will see also in Mr. Rawle's statement of this case, that this opinion was adopted and supported by two gentlemen of eminence at the bar: you will further see in that statement that the Government of the United States had no part in originating this prosecution; and that the District Attorney, in behalf of the United States, took measures at each term of the Circuit Court, to prepare the cause for trial, and on a plea calculated to defeat the prosecution. At length, in October term, 1796, the cause was brought to a hearing. In the course of the argument the question of jurisdiction presented itself. The Court adjourned until next day, to consider of it, and on the following morning dismissed the suit. As soon as I had received notice of this event, (on the 19th of October last,) I wrote to Mr. Adet, informing him that le Cassius remained in the custody of the Marshal, but ready to be delivered to his order. To this no answer was returned; but he mentions the matter, in the notes subjoined to his note of the 15th November, intimating that the United States were answerable in this case for a violation of Treaties, and for the damages the Cassius has sustained. Here the affair rests.

In his letter of the 3d of June, 1796, which you will find among the papers, respecting the Cassius, Mr. Adet mentioned the affair of the Favorite, at New York, and intimated an idea that the Executive might in like manner cause the

prosecution against le Cassius to cease. But the proceedings in the case of the Favorite were wholly in the hands of the Executive officers, who were under the President's immediate control, and to whom, on evidence satisfactory to the Executive, orders were given to discontinue the process. In this affair of the Favorite, we are fortunate in finding one case in which Mr. Adet (contrary to his assertion in his note of November 15) acknowledges that justice was done by our Government. You will observe in Mr. Fauchet's letter of the 23d of September, 1794, a very formidable complaint in this affair of the Favorite; that it was pretended that a privateer fitted for a cruise had deposited arms on board her, and that this pretext was used for visiting and pillaging her; that she was a ship of war of the Republic, then serving as a store-ship until she could be repaired; that the sovereignty of France was violated, and her flag insulted. Yet, by the letter of John Lamb, Esq., collector of the port of New York, of the 22d of November, 1794, you will see that at the time the seizure was made of the suspected articles on board the Favorite, "she having been totally dismantled, her crew sent on board other ships of war, and her sails, rigging, and other materials sold at public auction, she was considered as a hulk; otherwise the event would not have taken place." The collector further declares that the charge of pulling down the national flag and hoisting another in its place was groundless.

These are all the cases expressly mentioned by Mr. Adet, in which French privateers and their prizes have been brought under the cognizance of our courts of justice, and all, therefore, to which an answer can be directed. Had he cited the other cases, which he says would fill a volume, we have no doubt there would be found in them, as in those which have been mentioned, abundant reason to justify the Government and the tribunals.

Mr. Adet's complaints are not confined to imputations of injustice experienced by French privateers and their prizes from our courts.

First. "He protests against the violation of the 17th article of the Treaty, in contempt of which the American tribunals have taken cognizance of the validity of prizes made by French ships of war or privateers, under pretext of original armament or augmentation of armament in the United States; or of capture within their line of jurisdiction." But his predecessor, Mr. Fauchet,\* after saying that our admiralty courts interfered in prize cases on the ground of "seizure within the jurisdictional line of the United States, or of armament or augmentation of armament of the capturing vessels in their ports," immediately adds, "on this subject, sir, you request me to specify to you a circumstance in which a prize was arrested, which did not come under that denomination, and you take the trouble to establish that they have a right to intervene in every case that can be brought under those

\*Letter June 8th, 1795.

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'heads. In the first place, sir, I never have, at least to my recollection, contested the right of your courts, or of the Government, to interfere in matters of the nature of those you mention; but I complain of the facility with which prizes have been thrown into those two classes, which do not belong to them." He then says that he could cite a great number of affairs to which he alludes; but contents himself with mentioning only two. The first is the case of Talbot, of which I have already given some details, and which, with the documents referred to, will show this to have been an unfortunate instance to support his complaint. The other is that of the prizes of the Citizen of Marseilles, also, already mentioned, and which will not justify a complaint; for although the final decision was in favor of the privateer, yet the sentence of the district court was not reversed in the circuit court but upon the introduction of new testimony; and the Supreme Court allowed no damages, because the testimony was so ambiguous as to justify the appeal.

But, quitting the contradictory declarations of the French Ministers, and referring you to the letter dated August 16, 1793, from the Secretary of State to our Minister at Paris, (which has been published,\*) for the reasoning of our Government on this subject, and the demonstration of their right and duty as a neutral Power, to prohibit any of the belligerent Powers arming their vessels in our ports, consequently to restore to their proper owners prizes taken and brought in by vessels so unlawfully armed, or when taken within our line of jurisdiction, I will only add here, that the principle of the rules on this subject, first adopted by the President, on the most mature deliberation, received afterwards the sanction of Congress, by their act of June 5, 1794, and of the Judges in all their judicial proceedings in the prize-causes in question. If, then, the 17th article of the French Treaty has been violated, the Executive, the Legislature, and the Judges of the Federal Courts, have all deliberately concurred in the violation. This no American citizen will be inclined to believe; and we might suppose that the consideration of such concurrence in one opinion would anywhere produce a pause, and some diffidence in pronouncing it erroneous. Neither the rules adopted by the President, nor the act of Congress, have made a new law respecting such prizes: they have only directed the modes of proceeding to fulfil our neutral duties, agreeably to the universal Law of Nations. The Judges have applied this law, but not without due attention to the obligations of our Treaties, which they regard as supreme laws of the land.

2. Mr. Adet "protests against the violation of the 17th article of the Treaty, in contempt of which, English vessels which had made prize on Frenchmen have been admitted into the ports of the United States." The construction of this part of the 17th article, for which Mr. Adet, after his predecessor, (Mr. Fauchet,) contends, is this: That, if a national ship of war of the enemies of France has at any time, and in any part of the globe,

made prize of a French vessel, such ship of war is to be allowed no shelter or refuge in our ports, unless she is driven in through stress of weather; and then she is to be made to depart as soon as possible. On the contrary, the construction adopted by the Executive of the United States, and expressed in the rules beforementioned, which had been transmitted to the collectors in August, 1793, was this: That privateers only of the enemies of France were absolutely excluded from our ports, except as before, when compelled to enter through stress of weather, pursuant to the 22d article of the Treaty; while the national ships of war of any other nation were entitled to an asylum in our ports, excepting those which should have made prize of the people or property of France, coming in with their prizes.

On the 9th of September, 1793, the Secretary of State thus expressed to the British Minister the determination of the Executive: "The public ships of war of both nations (French and English) enjoy a perfect equality in our ports. 1. In cases of urgent necessity; 2. In cases of comfort and convenience; and, 3. In the time they choose to continue. And though the admission of prizes and privateers of France is exclusive, yet it is the effect of Treaty," &c.\*

In support of our construction of the Treaty, it has been observed, that "the first part of the 17th article relates to French ships of war and privateers entering our ports with their prizes; the second contrasts the situation of the enemies of France, by forbidding such as shall have made prize of the French—intimating, from this connexion of the two clauses, that those forbidden are those which bring their prizes with them." To these observations I will add, that, if the literal construction contended for by the French Ministers were admitted, then, although the public ships of war which had made prize of French people or property would be excluded from our ports, yet the prizes of such public ships might be received, and they might be sold too; for the prohibition in the 22d article of the Treaty applies only to privateers and their prizes, while the Government of the United States judged that the 17th article was intended to exclude the prizes made on the French by public ships of war, as well as those made by privateers, and gave directions accordingly to have them excluded. Further; if it had been intended to exclude from our ports the public ships of war of the enemies of France, coming without any prize, then they would doubtless have been comprehended in one provision with the privateers in the 22d article; for privateers are thereby excluded, whether they come with or without prizes. But public ships of war are not comprehended, or at all referred to in the 22d article; whence the conclusion is fair, that it was not intended to forbid them coming alone; and, consequently, that the exclusion provided in the 17th article applies to them only when they would come into our ports with their prizes—this last clause of the same arti-

\* State Papers, page 57.

\* State Papers, page 77.

† Secretary of State to Mr. Fauchet, September 7, 1794.



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cle being in its form opposed to the first clause, which admits the entrance of French ships with their prizes. Besides, if a public ship of war of the enemies of France comes into our ports without any prize, how is it to be known whether she has or has not made prize of the people or property of the French? Who is to erect a tribunal to investigate and pronounce on the fact? But if she comes with a prize, the case presents no difficulty; she brings with her the evidence which goes to the exclusion of her and her prize.

I must now advert to some others of Mr. Adet's charges against the Government of the United States.

1. "It [the Government of the United States] put in question whether it should execute the Treaties or receive the agents of the rebel and proscribed Princes." And is there anything in this unjustifiable or extraordinary? Was it easy for a nation distant as ours to obtain promptly such accurate information as would enable it duly to estimate the varying condition of France? In 1791, the Constitution formed by the Constituent Assembly was accepted by Louis XVI. It was notified to the United States in March, 1792. Congress desired the President to communicate to the King of the French their congratulations on the occasion. In August, 1792, the King was suspended; in September, royalty was abolished; and in January, 1793, Louis XVI. tried and condemned by the Convention, suffered death. Was it easy to keep pace with the rapid succession of such revolutionary events? and was it unlawful, under such circumstances, even to deliberate? I do not find that information of the death of the King was received from our Minister at Paris until May 1, 1793. The news, however, had previously arrived in such a manner as to attract the attention of Government; for, in April, the President had determined to receive a Minister from the French Republic. And it is remarkable that this was before he knew that a Minister had arrived in the United States. This promptitude in deciding a leading question does not bear any strong marks of hesitation. And was there no merit in this ready determination to acknowledge the French Republic? Had it been before acknowledged by any Power on the globe? How long did France hesitate to acknowledge the Republic of the United States? A year and a half. And under what circumstances was the acknowledgment finally made? After the capture of a whole British army appeared to have established our independence. But of this, more hereafter. In matters of importance, (and what could be more important than the decision of a neutral and allied nation on questions perhaps involving war or peace,) is it the part of wisdom to reject all deliberation, even on points which do not obviously present difficulties? Will not prudence dictate to him who is to decide great national questions—rather to deliberate long than risk the consequences of hasty decisions?

2. "It made an insidious proclamation of neutrality."

I have already remarked that this proclamation received the pointed approbation of Congress, and,

I might truly add, of the great body of the citizens of the United States. And what was the general object of this proclamation? To preserve us in a state of peace. And have not the Ministers of France declared that their Government did not desire us to enter into the war? And how was peace to be preserved? By an impartial neutrality. And was it not then the duty of the Chief Executive to proclaim this to our citizens, and to inform them what acts would be deemed departures from their neutral duties? This was done by the proclamation. It declared it to be the duty, interest, and disposition of the United States, to adopt and pursue a conduct friendly and impartial towards the belligerent Powers; it warned the citizens to avoid all acts which might contravene that disposition: it declared that whosoever of the citizens who should render himself liable to punishment or forfeiture under the Law of Nations, by committing or abetting hostilities against any of those Powers, or by carrying to any of them articles deemed contraband of war, would not receive the protection of the United States against such punishment and forfeiture: and that the President had given instructions to the proper officers to prosecute all persons who should violate the Law of Nations with respect to the Powers at war, or any of them. To what, in all this, can the epithet *insidious* be applied? On the contrary, is not the whole transaction stamped with candor and good faith?

3. "By its chicaneries it abandoned French privateers to its courts of justice." Abandoned them to its courts of justice! Sir, you know many of the Judges personally, and all of them by reputation, and that their characters need no vindication from such an insinuation. They are Judges with whose administration of justice our own citizens are satisfied; and we believe they may challenge the world to furnish a proof that they have not administered justice with equal impartiality to foreigners. I will only add here one remark, that the correspondences with the French Ministers formerly published, joined to those now furnished you, with the other documents accompanying them, will show how loudly they can complain of the proceedings in our courts, and, at the same time, with how little justice.

4. "It eluded the amicable mediation of the Republic for breaking the chains of its citizens at Algiers." We did not entertain any doubt of the friendly disposition of the French Republic to aid us in this business; but what was really done we have never known. You will find herewith Mr. Fauchet's letter of June 4, 1794, and the answer of the Secretary of State on the 6th, to which Mr. Adet refers. The information on the subject which Mr. Fauchet expected "in a little time from Europe," probably never arrived—at least, it was never communicated to our Government. There is surely in the Secretary's answer no evidence that our Government were unwilling to accept the mediation of the Republic. On the contrary, we have relied upon it to aid our negotiations with the Barbary Powers. Accordingly, when Colonel Humphreys went from hence in 1797, clothed



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with powers for negotiating peace with those States, he was particularly instructed to solicit the mediation of the French Republic; and for that purpose only he went from Lisbon to Paris, where, through our Minister, the Committee of Public Safety manifested their disposition to contribute to the success of his mission. But Colonel Humphreys was at the same time authorized to depute Joseph Donaldson, Esq. (who had been appointed Consul of the United States for Tunis and Tripoli, and who went with Colonel Humphreys from America) to negotiate immediately a Treaty with Algiers: for, in a country where a negotiation depended on so many contingencies, it was of the last importance to be ready to seize the favorable moment to effect a peace whenever it should offer. Such a moment presented on Mr. Donaldson's arrival at Algiers. He had not been there forty-eight hours before the Treaty was concluded. It is also a fact that it was effected without the aid of the French Consul at that place. However, with respect to Mr. Donaldson's negotiation, we are well informed, that "his not conferring with the Consul of France was not his fault; and if he had done it, that it would have injured his cause—neither the Republic nor her Consul enjoying any credit with the Dey." But we are at the same time informed that the cause of this was transitory, and ought not to hinder us from endeavoring to engage her interest for other places, and in that place for future occasions. Agreeably to this idea, the agent of the United States applied to the French Consul (Herculais) at Algiers, the last Spring, to recommend a suitable person to negotiate a Treaty with Tunis. The person recommended was employed, and, we had been informed, had in part succeeded, and was expected to complete a Treaty of Peace. This information was communicated to our Minister at Paris, in a letter dated the 30th August last, from the French Minister for Foreign Affairs, accompanied by an extract of a letter from the Consul, Herculais.

In all these transactions, far from discovering a trace of evidence to support Mr. Adet's charge, the reverse is manifestly proved.

5. "Notwithstanding Treaty stipulations, it allowed to be arrested vessels of the State."

While we admit the fact that French vessels have been arrested, we deny that the arrests have infringed any Treaty stipulations. The details in this letter, and the documents referred to, appear to us entirely to exculpate the Government. And if neither the Executive nor our tribunals could in any case take cognizance of captures which the French privateers called prizes, then they might take our own vessels in our rivers and harbors, and our citizens be without redress. But\* "It is an essential attribute of the jurisdiction of every country to preserve peace, to punish acts in breach of it, and to restore property taken by force within its limits. Were the armed vessel of any nation to cut away one of our own from the wharves of Philadelphia, and to choose to call it a prize, would this exclude us from the

right of redressing the wrong? Were it the vessel of another nation, are we not equally bound to protect it while within our limits? Were it seized in any other waters, or on the shores of the United States, the right of redressing is still the same; and humble indeed would be our condition were we obliged to depend for that on the will of a foreign Consul, or on negotiation with diplomatic agents."

The same reasoning will apply to captures made by illegal privateers; that is, by such as were armed and equipped in the ports of the United States; for it being by the Law of Nations the right of our Government, and as a neutral power its duty, to prevent such armaments, it must also be its right and duty, by all means in its power, to restrain the acts of such armaments done in violation of its rights and in defiance of its authority. And such were the armaments made by the French people in the ports of the United States. And the most effectual means of defeating their unlawful practices was the seizing of their prizes when brought within our jurisdiction. It is very possible, indeed, that in some cases the irritated subjects or public agents of nations whose property was taken by French privateers, might commence vexatious prosecutions: but this is no more than happens frequently among our own citizens, and in every nation in the world; and the only restraints on the vindictive passions of men, in such cases, which the policy of free Governments has imposed, are the damages which the courts compel the malicious prosecutor to pay to the injured party. If, as Mr. Adet asserts, damages have in two cases only been granted by the courts to French privateers, even when the decisions have been in their favor, it has arisen from their own conduct, or the omission of their counsel, or from accidental circumstances, which, in the opinion of the courts, furnished reasonable presumptions against them of having violated the laws, either by illegally arming in our ports or making the captures within our jurisdiction. If, on the other hand, they have, in the event of contrary decisions, been always condemned to pay damages, we may venture to say it was because they were always in the wrong. For no one will find sufficient ground to impeach the discernment or integrity of our courts.

6. "It suffered England, by insulting its neutrality, to interrupt its commerce with France." X

That our commerce has been interrupted by the armed vessels of England, and sometimes with circumstances of insult, we certainly shall not attempt to deny: the universal resentment and indignation excited by those injuries were admissions of the fact; but that the Government has *connived* at the practice, (for by that Mr. Adet must have intended to insinuate the word *suffered*;) all its acts most forcibly contradict. It was because of those aggressions that preparations for war were commenced, and to demand satisfaction for them was the leading object of Mr. Jay's mission to London. Satisfaction was demanded, and the arrangements agreed on for rendering it are now in execution at London. But if by *suffered*, Mr.

\* Letter from the Secretary of State to Mr. Morris, August 16, 1793, State Papers, page 62.

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Adet means that we did not arm—that is, make war on England—to obtain the indemnification, when humanity, reason, and the Law of Nations, prescribed the mode of previous peaceable demand, to these very principles we may appeal for our justification; and if it is necessary to go further, we say, that as an independent nation, we must be left to determine in what manner we can most beneficially obviate an evil, and when it is most proper for us to repel an injury. To deny us this right of judgment is to deny our independence. We have not been insensible either to our honor or our interest. If we have manifested much long-suffering, we have not been singular. Neutral nations very commonly endure many temporary evils, because these appear light, when compared with the calamities of war; and they look forward, as we have done, to a period when returning justice may redress their wrongs. This period, we trust, will arrive in regard to those we are now suffering from the French Republic. If a nation, not bound to us by Treaty, and between whom and ourselves actual circumstances and many recollections tended to excite peculiar passions, engaged to render us justice, shall we expect less of an avowed friend?

We may here properly inquire, what could have been the understanding of the parties on this point, when the Treaty of 1778 was made between France and the United States? She knew, that notwithstanding the extent of our country, and its rapid increase in population, many years must elapse before we could form a powerful Navy to protect our commerce. She knew the conduct of maritime Powers in all their wars; particularly, she was acquainted with the maxims and measures of England towards the commerce of neutral nations, in all her wars with France. And if, knowing these things, France then expected that in all subsequent wars we should compel the maritime Powers in general, and Great Britain in particular, to admit our commerce to perfect freedom, then, instead of a Treaty of Commerce containing regulations for conducting it, when France should be at war, she would have demanded from us a stipulation, that in every future war in which she should be engaged with any other maritime Power, we also should engage in it as her associate. But this is a condition which France was too just to demand, and to which the United States never would have agreed.

7. "Notwithstanding the faith of Treaties, it gave an asylum to these same English, who, after having insulted her flag and pillaged her citizens, came also to brave the American people in their ports, and to take a station whence to cruise, on a favorable opportunity, against the French."

This, like most others of Mr. Adet's charges, is but the renewal of the complaints of his predecessor, Mr. Fauchet; and the vindication of the Government will appear in the answers and communications from the Secretary of State to that Minister, in the years 1794 and 1795. The cases particularly noticed were those of the British frigate *Terpsichore* and her prize *la Montague*; and of the British ship *Argonaut* and her prize *l'Esper-*

*ance*. The *Thetis* and *Hussar*, British frigates, with their French prizes *la Prevoyance* and *la Raison*, are also mentioned, but without any facts or circumstances as subjects of inquiry, which of course is precluded. That of the *Terpsichore* and her prize appears to have been the first case of the kind in which the Executive of the United States, and those of the particular States, were called to interfere; and therefore it will not be thought extraordinary, if the Executive of Virginia was unprepared with arrangements to give instant effect to the stipulation of the 17th article of the Treaty of 1778, forbidding an asylum to the armed vessels of the enemies of France and their prizes. What delay took place seems to have been the result of accident—certainly not of design. And by letters from this Department, the Executives were earnestly pressed to take the necessary order for prompt execution, in future, of this part of the Treaty. But why should the French Ministers complain, with such energy, that a British ship of war, with her prize, remained in one of our ports during perhaps twenty or five-and-twenty days; when, against the earnest requests and orders of the Executive, the French privateers, armed in our ports in violation of the laws, long continued to keep on our coast, and enter our harbors—thence, on favorable opportunities, to cruise against their enemies? The *Columbia*, or *Carmagnole*, continued such her unlawful acts for more than a year.

After all the zealous remonstrances of Mr. Fauchet, now renewed by Mr. Adet, about the capture of the French corvette *l'Esperance* by the British ship *Argonaut*, who went with her prize into Lynnhaven bay, what were the facts? The Governor of Virginia went personally to the French Consul at Norfolk, for information concerning this declared violation of the Treaty, but "received none which appeared to justify the uneasiness occasioned by that event—he charging no circumstance as improper in the captors, but rather seemed to consider the introduction of the prisoners made on that occasion, so soon, into a place where the exchange would be effected, as an alleviation of the misfortune of losing the vessel." The captain of the French corvette himself was desired to give evidence in the case. He promised, but failed to appear. He was called upon a second time to give information, but discovered an unwillingness to do it—observing that he had given to the Consul a circumstantial account of the transaction on his arrival. The Governor having heard that a respectable pilot, by the name of Butler, was acquainted with the circumstances of this affair, he directed his deposition to be taken. It was taken, and imported that Admiral Murray himself purchased the prize *l'Esperance*, and manned and fitted her in Lynnhaven bay for a cruise. But Butler's deposition was afterwards taken on the part of the British, in which he contradicted all the material facts recited in the former deposition; for which he accounted, by saying, that he could neither write nor read, and that there had been inserted in his first deposition what he had never said. Under these circumstances, it was desirable

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to obtain further information. This was furnished by the British Minister, in the extract of a letter from Admiral Murray, which bears every mark of candor and humanity, and of respect for the United States. It is as follows: "The French sloop of war *l'Esperance* was brought into Lynnhaven bay on the 11th of January (a few days after my arrival there) by Captain Ball, who had captured her fifteen leagues from the shore. The weather being very tempestuous, a lieutenant, with a sufficient number of men only to navigate her, (not being half the complement the French had in her,) were sent on board from the *Resolution* and *Argonaut*; and so soon as the weather permitted those ships to supply her with water and provisions, I sent her to sea, that I might give no umbrage to the American States. An additional reason for bringing *l'Esperance* into Lynnhaven bay, was out of humanity to the French prisoners, whom, having had a long voyage, I sent to Norfolk as soon as prudence would permit: otherwise, they must have been kept prisoners on board the whole Winter, and sent to Halifax in the Spring. Nor was she equipped or armed then, in any manner whatever; nor did the lieutenant receive any commission for her whilst in Lynnhaven bay; and when at sea, only an acting order to command her, which is customary, and absolutely necessary in all captures: otherwise, if retaken by the enemy, he might be considered as a pirate."

8th. "It might be said that it applauded their (the English) audacity; all submission to their will, it allowed the French colonies to be declared in a state of blockade, and its citizens interdicted the right of trading to them."

If, among the multitude of such complaints as Mr. Adet has exhibited, any one could excite surprise, this charge is calculated to produce it. Here a formal charge is made against the Government of the United States, that it did not control, in another independent nation, the right of judging of its own affairs; that it did not forbid and effectually prevent the officers of a foreign Power, the British admirals and commanders in the West Indies, declaring certain French colonies to be in a state of blockade! "But the official legalization of a proclamation had been posted up under our eyes, prohibiting our commerce with the French colonies, and suspending to us alone the Law of Nations!" The answer to Mr. Fauchet, from the Secretary of State, represents this matter differently. The British Consul General at Philadelphia, by a publication on the 10th of April, 1795, gave notice: that he had received official communications that the islands of Guadalupe, Marigalente, and Desirade, were, by proclamation issued by His Britannic Majesty's general and vice admiral commanding in the West Indies, declared to be in an actual state of blockade; and that neutral (not singly American) vessels were thereby prohibited from attempting to enter any ports or places in those islands, with supplies of any kind, under the penalty of being "dealt with conformably to existing Treaties, and as warranted by the establish-

ed Laws of Nations." And while existing Treaties (our Treaty with Great Britain had no operative existence till six months after the consul's advertisement) and the Laws of Nations were avowed to be the rules by which the property of neutrals was in this case to be adjudged, had they reason to complain? If any neutral vessels attempted to enter any of those ports which were not in reality in a state of blockade, and yet were captured, could they be condemned? Certainly not by the rules which the British prescribed to themselves—"Treaties and the Laws of Nations." But if the British commanders proclaimed untruths, and issued arbitrary orders for capturing neutral vessels, and their cruisers and courts of admiralty executed them arbitrarily, could the American Government prevent them? We could demand of the British Government satisfaction for injuries to our own citizens consequent on such orders; and if any such were sustained, the arrangements for making reparation are now in execution. But admitting that any ports in the French colonies were in fact blockaded, who should notify it to neutral nations accustomed to trade with those ports? Certainly the officers of that Power whose fleets and armies formed the blockade; and, in the United States, no mode of giving universal notice could be so effectual as a publication in handbills and newspapers.

9th. "It eluded all the advances made by the Republic for renewing the Treaties of Commerce upon a more favorable footing to both nations; it excused itself on the most frivolous pretences; whilst it anticipated Great Britain by soliciting a Treaty, in which, prostituting its neutrality, it sacrificed France to her enemies; or rather looking upon her as obliterated from the map of the world, it forgot the services she had rendered it, and threw aside the duty of gratitude, as if ingratitude were a governmental duty."

Of the advances referred to, the first were made by Mr. Genet. These you will see in the printed correspondence between him and Mr. Jefferson. Mr. Genet's letter is dated the 23d of May, 1793, in which he informed the Government that he was authorized to propose a Treaty on a "liberal and fraternal basis."\* Mr. Jefferson's letter to Mr. Morris, our Minister at Paris, dated the 23d of August, 1793, assigns the reason for postponing the negotiation.† "The Senate (says he) being then in recess, and not to meet again till the Fall, I apprised Mr. Genet that the participation in matters of Treaty, given by the Constitution to that branch of our Government, would, of course, delay any definitive answer to his friendly proposition. As he was sensible of this circumstance, the matter has been understood to lie over till the meeting of the Senate." Congress were not to meet until December, consequently there was no necessity for precipitating the business. But, with the best dispositions to form new commercial arrangements, mutually more beneficial than those of the Treaty of 1778, the unwarrantable conduct of Mr. Genet, from

\* State Papers, p. 15.

† State Papers, p. 68.

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the moment he landed at Charleston, until the date of his letter on the subject of the negotiation, was sufficient to excite caution in the American Government. He had there violated the sovereignty of the United States,\* "by authorizing the fitting and arming vessels in that port, enlisting men, citizens and foreigners, and giving them commissions to cruise and commit hostilities on nations at peace with us," and with whom we had extensive commercial connexions. "These privateers were taking and bringing prizes into our ports, and the consuls of France were assuming to hold courts of admiralty on them, to try, condemn, and authorize their sale as legal prizes." Nevertheless, the Government, really desirous of forming a new and more advantageous commercial treaty with France, instructed the Minister of the United States at Paris, to manifest the same to the Executive of France, and to suggest, for this purpose, that the powers of Mr. Genet be renewed to his successor. It is true, that in his letter dated the 30th of September, Mr. Genet had renewed the proposition of negotiating a commercial treaty; but how was it possible for the Government to undertake a negotiation with that Minister, after "the correspondence which had taken place between the Executive and him," (a correspondence on his part replete with insults,) "and the acts which he had thought proper to do and to countenance, in opposition to the laws of the land?" After the Government had instructed our Minister at Paris to desire Mr. Genet's recall, and to declare to the Government of France, "the necessity of their having a representative here disposed to respect the laws and authority of the country, and to do the best for their interest which these would permit; and when it was only an anxious regard for those interests, and a desire that they might not suffer, which induced the Executive in the meantime to receive his communications in writing, and to admit the continuance of his functions so long as they should be restrained within the limits of the law, as heretofore announced to him, or should be of the tenor usually observed towards independent nations by the representative of a friendly Power residing with them?" Under such circumstances, what answer could the Executive return to Mr. Genet, more proper and more marked with attention to France, than that his letter "would be considered with all the respect and interest which its object necessarily required?"

It is probable that the powers to negotiate a commercial treaty were not renewed to Mr. Genet's successor; certainly they were not communicated to our Government.

We now come to the fresh overtures of a commercial negotiation made by Mr. Adet.

The first notices of them are found in a memorandum of facts dated the 27th and 29th of June, 1795, and subscribed by the Secretary of State. By these it appears that, on the 13th of June Mr.

Adet arrived at Philadelphia. On the 15th Mr. Fauchet introduced him to the Secretary of State. On the 16th Mr. Adet informed the Secretary that he should the next day send him some act of the French Government relative to commerce; but it was not sent. On the 22d of June Mr. Adet was reminded of the promised communication. He said it was copying, and gave reason to suppose that he should forward it on that day, but on that day nothing was received.

On the 29th of June, 1795, Mr. Adet had an interview with the Secretary of State; he observed that he brought with him the commercial decrees which Mr. Genet had formerly propounded to our Government, and was instructed to negotiate a Treaty of Commerce upon their basis. He was asked whether he had any documents to communicate. He replied that he would send them that day. He said he had to communicate some inquietudes respecting the late Treaty between the United States and Great Britain. He observed that it was understood that the United States had disabled themselves from entering into a new commercial treaty upon a liberal scale with France. The Secretary answered, that he had determined, before he came, to ask the permission of the President to communicate to him a copy of the Treaty; and then he might say in what part he supposed that any impropriety with respect to France existed. The President having afterwards assented, the Secretary on the same day delivered to Mr. Adet a printed copy of the Treaty, on which he promised to communicate his remarks.

These remarks, dated June 30th, and the Secretary's answer, dated July 6th, refuting the objections they contained, I have already noticed. The subsequent proceedings will show either that those objections did not make any strong impressions on Mr. Adet's mind, or that the Secretary's answer had removed them.

On the 30th June, 1795, Mr. Adet communicated a part of his instructions relative to "a new commercial treaty and a new consular convention, to be entered into between France and the United States." The instructions imported that he was only to "prepare, with the American Government, the means and arrangement" of these treaties, and then to communicate them to the committee of public safety. The object of the new Treaty was declared to be "to found the commercial relations of the two Republics upon stipulations more reciprocally advantageous, and more clearly worded than that of 1778, and the object of the consular convention to secure the execution of the commercial treaty."

The Secretary of State answered, on the first of July, expressing the readiness of the Government to open the proposed negotiation; and requested a communication of the dates of the decrees to which Mr. Adet's instructions referred.

On the 8th of July, 1795, Mr. Adet replied to the Secretary of State, "that he neither knew nor possessed any other decree, relative to the new negotiation to be opened between France and

\* Mr. Jefferson to Mr. Morris, August 16th, 1793. State Pap. p. 58.

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'the United States, than that of the 5th\* of February, 1793, communicated to us by citizen Genet." This letter of the 8th was received the 12th, accompanied by a note of the latter date apologising for the delay on account of sickness. On the 12th the Secretary of State had written to him pressing him on the subject of the new negotiation.

On the 16th of July, 1795, the Secretary of State again wrote to Mr. Adet; and, after informing him that he was not clothed with any very formal authority upon this subject, the President of the United States had thought proper to place him (the Secretary of State) upon the same and no other footing, the Secretary proposed that the negotiation should be conducted in writing, unless when either thought it expedient to have an interview on any particular difficulty. And then assuring Mr. Adet that no unnecessary procrastination should be found in the Secretary of State, further proposed that Mr. Adet should state, 1st. The parts of the Treaty which he wished to be abolished; 2d. Those parts which he wished to be corrected; and, 3d. Any additions which seemed to him desirable; but expressed the readiness of the Secretary to adopt any other better mode of conducting the negotiation, if such occurred to Mr. Adet.

On the 20th of July, 1795, Mr. Adet, mentioning his sickness, which, for fifteen days, had obliged him to abstain from business, replied on the subject of the negotiation in these words: "In a few days I shall have the honor of seeing you, and of taking the necessary measures in order to commence the business relative to the digesting of the new Treaty and new consular convention."

From this detail it must, I conceive, be no easy task to find any facts by which Mr. Adet's charge can be supported. What he affects to call "frivolous pretexts," are substantial reasons; and, in respect to his own advances to treat, the conduct of our Government manifests an eagerness to enter on the negotiation; certainly you will discover in it no disposition to elude or to procrastinate.

You will be pleased to observe, sir, that the letter from the Secretary of State to Mr. Adet, explaining the manner in which they should proceed in the negotiation, is dated the 16th of July; and that Mr. Adet's answer, agreeing shortly to meet the Secretary, in order to take the necessary measures for commencing the business, is dated the 20th of July; yet, in his note of November 15th, 1796, after having charged the Government of the United States "with eluding all advances made by the Republic for renewing the treaties of commerce, and excusing itself on the most frivolous pretexts;" after acknowledging that the President had authorized the Secretary of State to negotiate, and that the latter had explained the manner of proceeding, he asks, "but at what time? When the ratification of the Treaty

concluded between Lord Grenville and Mr. Jay, no longer permitted the undersigned to pursue that negotiation." I am sorry, sir, in this place, to call your attention to dates. The British Treaty was not ratified until the 14th of August, 1795, that is, about a month after the plan of negotiating with Mr. Adet had been proposed to him by the Secretary of State, and twenty-five days after he had agreed to proceed in it. And if that ratification finally induced him to abandon the idea of negotiating a new Treaty between France and the United States, it did not instantly produce this determination. He doubtless perceived that his own objections to the British Treaty were obviated by the answer from the Secretary of State; and when he acknowledged the receipt of it, he had given up the right of judging of the Treaty, whether it was good or bad. "I shall," says he in his letter of July 20th, 1795, "transmit it (the Secretary's answer) to the French Government, together with my observations and the Treaty. In such important circumstances, it is exclusively the province of my Government to judge; and I cannot permit myself to decide at all." And then immediately adds, "In a few days I shall have the honor of seeing you, and of taking the necessary measures in order to commence the business relative to the digesting of the new Treaty and new consular convention." The British Treaty then did not obstruct the negotiation; the principles of which might have been agreed on, and the articles drawn into form to be submitted to the respective Governments; for that was all the respective negotiators were authorized to do.

Will the Ministers of the French Republic never cease to reproach us with "ingratitude?" If, indeed, "France wrought" as well as "guaranteed the independence of the United States," as Mr. Adet asserts, "at a time when she might, as the price of that very independence, have granted them less liberal conditions," our obligations are greater than we have hitherto imagined. But it is time that these claims to our gratitude were investigated, and their extent ascertained. We have citizens yet alive who were actors and witnesses of the Declaration of our Independence, and of the efforts to maintain it, with their effects, prior to our Treaty with France. But laying no stress on our own recollections or consciousness, we will resort to the testimony of France herself.

France, by her Minister, the Marquis de Noailles, having, in the declaration of the 13th of March, 1778, which I have already quoted, announced to the Court of London the Treaty of Friendship and Commerce she had formed with the United States; and that to maintain the commerce of his subjects with them, which was the object of that Treaty, His Most Christian Majesty had "taken eventual measures in concert with the United States of North America," that Court published a justificative memorial, to vindicate to the world the war she had determined to wage against France. In the Observations of the Court of France on this British memorial, we find the following declarations on the part of France:

\* Mr. Adet has since corrected this date, the decree intended being dated February 19th, 1793.



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\* "While the Ambassador of England put the King's patience to the strongest proofs, and while the Court of London was constantly repeating denials of justice to His Majesty's subjects, at the same time that the British officers continued to desolate them on the sea, an event came to pass in America which essentially changed the face of things in that quarter of the world. This event was the defeat of the army under General Burgoyne. The news of this unexpected disaster, which arrived in Europe in November, 1777, astonished the British Ministers, and must have more sensibly affected them, as it overthrew the plan they had laid for the reduction of the colonies." The Observations then suggest that this great event induced, in the British Cabinet, the idea of conciliation with America, and of a coalition against the Crown of France, in revenge for the supposed aid rendered by her to the United States; and to gratify "their most dear and constant wish—that of humbling France."† "It was natural for the British Ministry, unable to subdue her colonies, to seek to be reconciled to them, and to engage them to espouse her resentment. They might so much the more flatter themselves that they should succeed herein, as the proceedings of France with regard to American privateers, and especially the dislike the King had at all times manifested to any engagement with the Congress, must have given disgust and dissatisfaction to their Deputies, and induce them, notwithstanding their well known aversion, to seek even in England the safety of their country, when they failed to find it in France."

‡ "The King, well informed of the plan of the Court of London, and of the preparations which were the consequence of it, perceived that no more time was to be lost, if he would prevent the designs of his enemies. His Majesty determined, therefore, to take into consideration, at length, the overtures of Congress."

§ "The Commissioners [from the United States] proposed to the King a Treaty of Amity and Commerce, and an alliance offensive and defensive, by which His Majesty should engage not only to acknowledge simply and purely the independence of the United States, but also to guarantee and defend it by force of arms. The King ordered an answer to be given, that he could indeed look upon the independence of the United States as existing, but that it did not belong to him to acknowledge it, because he had not any right to judge of it; neither could he guarantee it, as he did not intend to enter into a war for its support. His Majesty in consequence refused an offensive alliance, and confined himself to the Treaty of Amity and Commerce. But as it was more than probable that the Court of London had formed the design of attacking France, His Majesty thought he ought to enter into an alliance with the United States eventual and purely defensive. The stipulations contained in this second Treaty are, in substance, that if France should be attacked by the Court of London be-

fore the cessation of hostilities between that Court and its Colonies, then the King and the United States should mutually assist each other against the common enemy; that the King should guarantee the independence and sovereignty of the United States; and that he should not lay down his arms till it should be acknowledged by Great Britain."

Thus it is manifest that the United States were to be left still to fight their own battles, unless Great Britain should choose to increase the number of her enemies by attacking France; in which case it would be as truly the interest of France as of the United States to make it a common cause.

\* "This last Treaty remained secret, because it was not in force at the time of concluding it; but that of commerce was notified at the Court of London, March 13th, 1778." The first words of the notification are these: "The United States of North America, who are in full possession of independence," &c. The whole paragraph has been already quoted. The notification further expressed "that the King, being determined to protect effectually the lawful commerce of his subjects, and to maintain the dignity of his flag, His Majesty has, in consequence, taken eventual measures, in concert with the United States of North America." The Court of London chose to consider this notification as a declaration of war, of which they accuse the King as being the author, and represent him as the violator of laws, divine and human, &c., &c. "The act, however, which has drawn upon the King such odious imputations, has, for its foundation, two incontestable truths: the first, that at the period of the 6th of February, 1778, the Americans had the public possession of their independence; the second, that the King had a right to look upon this independence as existing, without being obliged to examine the legality of it, and that no law forbade him to form connexions with the Americans."

The Observations then reciting that the fruitless attempts of the Colonies to obtain redress from their mother country, in the mode of supplication, had induced them to league together to maintain their privileges, sword in hand; and, soon after, to publish the solemn act, whereby they declared themselves independent, say, † "This act, which is of the 4th of July, 1776, induced the Court of London to give way to her resentment; she displayed her power to chastise the Americans, and to reduce them by conquest. But what has been the fruit of their efforts? Have they not served to demonstrate to America, to all Europe, and to the Court of London herself, her impotence, and the impossibility of her ever hereafter bringing the Americans again under her yoke!" That she had given this demonstration to America is evident by the manner in which Congress received the conciliatory bills, hastily sent from the Court of London to America, and communicated by Lord and General Howe. Congress were then

\* Obs. p. 60. † Obs. p. 64. ‡ Obs. p. 66. § Obs. p. 67.

\* Obs. p. 69.

† Obs. p. 73.



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uninformed of the Treaties which their Commissioners had lately concluded at Paris. Yet confident in the strength and spirit of their country, and of the inability of Britain to subdue it, they resolved, unanimously, to reject these overtures for peace and conciliation, and to hold no conference or Treaty with any Commissioners on the part of Great Britain, unless, as a preliminary, they withdrew their fleets and armies, or in positive terms acknowledged the independence of these States.

Again: † "It is sufficient for the justification of His Majesty that the Colonies, which form a nation, considerable as well for the number of their inhabitants as for the extent of their dominion, have established their independence, not only by a solemn declaration, but also in fact; and that they have supported it against the efforts of their mother country. Such was, in effect, the situation of the United States when the King began to negotiate with them. His Majesty had full liberty of considering them as independent, or as the subjects of Britain. He chose the first part, because his safety, the interest of his people, invariable policy, and, above all, the secret projects of the Court of London, imperiously laid him under the necessity." The secret projects here referred to were those of reconciliation, on terms which might satisfy the United States, and produce a re-union and coalition for the purpose of falling upon France. To avoid the risk of this combined attack, to avoid greater danger in future, by preventing the possibility of uniting again the great portions of the British empire, separated, in fact, and thus essentially to diminish its power, were the avowed inducements with the Court of France to consider the United States as independent. Having stated these things, they † "ask if there is a Sovereign who, in the same situation with His Majesty, would not have imitated his example?"

Again: † "He (the King of France) had the right to consider as independent the confederate inhabitants of an immense continent, who presented themselves to him with this character; especially after their ancient Sovereign had demonstrated, by efforts as continual as painful, the impossibility of bringing them back to obedience."

§ "To complete the justification of His Majesty, nothing remains but to examine whether what are called *Reasons of State* could have determined His Majesty to connect himself with the Americans. To treat this question with all the clearness of which it is susceptible, the political interest of France must be viewed under two different relations: the first respects the other Powers of Europe, the second respects Great Britain."

"In treating with the Americans, after they became independent, the King exercised the right inherent in his sovereignty, with no other view than to put an end to the predominant power,

which England abused in every quarter of the globe." The Observations then suggest that by this conduct the King has essentially watched over the interests of all the Sovereigns of Europe, \* "by contributing to restrain a Power which has always carried to excess the abuse of her resources."

The Court of London having charged the King of France with ambition, and the project of demolishing the power of England, by his engagements with the Americans, the Observations declare, that † "Nothing more will be discovered in them, [his engagements with the United States,] on the most accurate scrutiny, than a diminution of this power—a diminution which England has herself provoked, by a conduct the most unjust and most irregular, and which the tranquility and happiness of Europe have for a long time required."

† "The most vigilant and consummate prudence could not devise adequate precautions against the enterprises of such a Power; so that the only means of being secured from it was to seize the opportunity of diminishing it."

‡ "It may then be truly said, that, on examination of the conduct of the King, it was not only just and lawful, but even necessary, as well for the individual interest of France as for that of all Europe."

I will trouble you with but one extract from the justificatory Observations of the Court of France.

§ "To deceive the other nations with regard to the real motives which have directed the conduct of the King, the British Ministry maintain that he entered into the Treaty with the Americans, not because he feared the secret views of Great Britain, but because he foresaw that the Americans, defeated, discouraged, without support, and without resources, were about to return to their mother country; and that there was not a moment to be lost in reanimating and confirming them in their opposition. It was, without doubt, for the sake of this assertion, that the British Ministry have thought it beneath the dignity of their Sovereign to search for the period at which France formed connexions with the United States; it might with greater truth be said that this research did not coincide with their plan of defence. The King is willing to spare the British Ministry a task so disagreeable and embarrassing, by observing for them, that the conversations which led to the Treaties of the 6th of February, 1778, were considered posterior to the capitulation of General Burgoyne. Now, it is notorious that this event elevated the courage and the hopes of the Americans as much as it dejected the British nation, and principally the Court of London. If, then, the King has listened to the propositions of Congress, after this period, so disastrous to the British, it has not been, and could not have been, for any other reason but because he thought, with the Unit-

\* Journals of Congress 22d April, 1778.  
† Obs. p. 78. ‡ Obs. p. 82.

† Obs. p. 77.  
§ Obs. p. 88.

\* Obs. p. 89.  
‡ Obs. p. 92.

† Obs. p. 90.  
§ Obs. pp. 95, 96.

‡ Obs. p. 91.

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'ed States, that their independence was thenceforward irrevocable."

In these extracts from the Observations of the Court of France, we see an open avowal of her motives for entering into Treaties with the United States during our Revolution; but do such motives afford any strong claims to our gratitude? She rejoiced at the prospect of a final separation of the thirteen Colonies from Great Britain. She saw them erected by their solemn declaration into independent States: but during near three years of our contest she continued waiting for some fortunate event that should ensure stability and ultimate success to our enterprise. This event took place in the capture of a whole British army. "Then the King listened to the propositions of Congress, because he thought with the United States that their independence was irrevocable." He then treated with the Americans with no other view than to put an end to the predominant power which "England exercised in every quarter of the globe." "A diminution of this power (says the King) the tranquillity and happiness of Europe have for a long time required." "The only means of being secured from it, was to seize the opportunity of diminishing it:" and he did seize it, because his safety, the interest of his people, invariable policy, and above all, the secret projects of the Court of London, imperiously laid him under the necessity."

After these repeated declarations on the part of France, that her only view in contracting engagements with the United States was to diminish the British power, and thereby promote the safety and interest of her own people, and the tranquillity of Europe; very unexpected indeed are the modern claims of boundless and perpetual gratitude. Nevertheless, animated as we always have been with sincere desires to maintain those useful and friendly connexions with France, which had their foundation in our Revolution, we should have remained silent on these claims, had not the frequency and manner in which they have been urged compelled their discussion. We are not now disposed to question the importance of the aid we actually derived from France in the war of our Revolution, nor to retract the grateful acknowledgments that all America has from that time offered to that nation: we were in the habit of expressing our gratitude to her for the benefits which we received, although they resulted from her exertions to advance her own interest and secure her own safety. But if those benefits had been rendered from pure benevolence, from disinterested good will to us, and we had been remiss in acknowledging them, is it the part of generosity, of magnanimity, constantly to upbraid the receivers of their favors with ingratitude? Do not such reproaches cancel the obligation? But if for favors apparently generous, substantial returns are demanded, the supposed liberal act degenerates, and becomes a mercenary bargain.

If such only are the motives for our gratitude towards France, at the commencement of her political and commercial connexions with us, in the midst of our war with Great Britain, what more

can we discover at the conclusion of that war? Let us examine.

In 1781, with the assistance of a French army by land, and a powerful fleet by sea, a second British army was captured. This event made even the British Government despair of bringing the United States again under her subjection. The Ministry was changed; and the Parliament passed an act to authorize the King to make peace. In the Summer of 1782, an agent, on the part of Great Britain, repaired to Paris to negotiate with the Commissioners of the United States. For some time Doctor Franklin and Mr. Jay were alone at Paris. The commission to Mr. Oswald (the British negotiator) authorized him to treat of and conclude a peace or truce with any Commissioner or Commissioners, named or to be named by the colonies or plantations of New Hampshire, &c. (naming the thirteen) or with any of them separately, with parts of them, or with any persons whatsoever. Mr. Jay was not satisfied with this commission to Mr. Oswald: the independence of the thirteen States was no where intimated. Agreeably to their instructions from Congress, to take advice of the Court of France, the Commissioners communicated Mr. Oswald's commission to the Prime Minister, the Count de Vergennes. The Count expressed his opinion that the commission was sufficient; that it was such an one as we might have expected it would be: "That an acknowledgment of our independence, instead of preceding, must, in the natural course of things, be the effect of the Treaty." This opinion the Count continued from time to time to repeat. In short, "it was evident the Count did not wish to see our independence acknowledged by Britain, until they had made all their uses of us." Mr. Jay still continued unmoved. He conferred with Mr. Oswald, and "urged in the strongest terms the great impropriety, and consequently the utter impossibility of our ever treating with Great Britain on any other than an equal footing; and told him plainly, that he (Mr. Jay) would have no concern in any negotiation in which we were not considered as an independent people."

It was on this occasion that Mr. Oswald communicated to Mr. Jay this article of his instructions: "In case you find the American Commissioners are not at liberty to treat on any terms short of independence, you are to declare to them that you have our authority to make that cession: our ardent wish for peace disposing us to purchase it at the price of acceding to the complete independence of the thirteen colonies."

The British Ministry approved of this communication; but still were for treating with us as colonies, and making an acknowledgment of our independence only an article of the Treaty. Mr. Jay's discernment discovered the source of the backwardness, at this time, in the British Court, to admit our independence previous to the negotiating of the Treaty; and mentioned it with his reasons to Mr. Oswald; who, far from contradicting Mr. Jay's inference, told him a fact which confirmed his opinion that it originated in the

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Court of France, and was communicated to that of London by the British Commissioner then in Paris, to treat of peace between France and Great Britain. Mr. Jay then explained to Mr. Oswald what he supposed to be the natural policy of the French Court, and showed him, "that it was the interest of Britain to render us as independent of France as we were resolved to be of Britain." Mr. Oswald was convinced. Mr. Jay reminded him of the several resolutions of Congress, passed at different periods, not to treat with British Commissioners on any other footing than that of absolute independence; and proposed to give to him in writing what he had before expressed in conversation—his determination not to treat but on the footing of equality. Mr. Oswald preferred having it in writing. Mr. Jay prepared the draught of a letter, to be signed by him and Dr. Franklin, expressing their determination not to treat but on terms of equality, as an independent nation; and exhibiting the reasons of this determination. Dr. Franklin thought the letter "rather too positive, and therefore rather imprudent; for that in case Britain should remain firm, and future circumstances should compel us to submit to their mode of treating, we should do it with an ill grace, after such a decided and peremptory refusal." Besides, the Doctor seemed much perplexed and fettered by the instructions from Congress—to be guided by the advice of the French Court. Neither of these considerations affected Mr. Jay. For as to the first, he could not conceive of any event which would render it proper, and therefore possible, for America to treat in any other character than as an independent nation. And as to the second, he could not believe that Congress intended they should follow any advice which might be repugnant to their dignity and interest.

Dr. Franklin's doubts prevented this letter being signed. Mr. Oswald was disappointed, and desired to see the draught. He saw it, and requested a copy of it. After taking time for consideration, Mr. Jay complied with the request. "For though unsigned, it would convey to the British Ministry the sentiments and opinions he wished to impress; and if finally they should not be content to treat with us as independent, they were not yet ripe for peace or treaty with us. Besides, he could not be persuaded that Great Britain, after what the House of Commons had declared, after various other acts of that Government, manifesting the intention to acknowledge it, would persist in refusing to admit our independence, provided they really believed that we had firmly resolved not to treat on more humble terms."

"With the copy of this draught Mr. Jay gave Mr. Oswald copies of the various resolutions of Congress which evinced their adherence to their independence. These papers Mr. Oswald sent by express to London, and warmly recommended the issuing a new commission, to remove all further delay."

Mr. Jay having afterwards ascertained that the Count de Vergennes had sent a confidential agent

to London, but whose journey was intended to have been a secret, for purposes evidently hostile to the interests of the United States, determined immediately to counteract the project, by an agent on whom he could rely, to make to the Court of London such representations as he thought the occasion demanded. He succeeded, and in about two weeks, Mr. Oswald received a new commission in the form for which Mr. Jay had contended.

Mr. Jay remarked, that agreeably to the Declaration of Independence, the United States, as free and independent, had full power to levy war, conclude peace, contract alliances, &c. That by the act of confederation, the style of the Confederacy was declared to be, THE UNITED STATES OF AMERICA, and by that act Congress were vested with the sole and exclusive right and power of determining on peace and war, and of entering into treaties and alliances: that being of right and in fact free and independent States, their Representatives in Congress granted a commission to certain gentlemen, of whom Dr. Franklin and he were two, in their name to confer, treat, and conclude with Ambassadors or Commissioners, vested with equal powers, relating to the re-establishing of peace, &c. But the first commission to Mr. Oswald was not equivalent: the United States were not named in it; nor their Commissioners, who consequently were not the persons with whom Mr. Oswald was authorized to treat. And if the Commissioners had consented to treat with Mr. Oswald under such a commission, what would have been the condition of the people of the United States in the interval, between the commencement of the negotiation and the conclusion of peace? They would have been not independent citizens; but, by our own acknowledgment, British subjects. Mr. Jay would not consent to this degradation, after we had maintained our independence six years, after we had established it in fact, and after Congress had, by firm and repeated resolutions, refused to treat with Great Britain, unless as a preliminary, she withdrew her fleets and armies, or else in positive and express terms, acknowledged the independence of the United States. At the same time, Congress manifested their readiness to attend to such terms of peace as might consist with the honor of independent nations; but the honor of an independent nation forbade their treating in a subordinate capacity. Even the dignity of France, who four years before treated with us as an independent nation, required that we should not degrade ourselves when going to treat with her enemy; and why then should her Ministers desire us to do it? Especially when the Treaty of Defensive Alliance declared the "essential and direct end of it was to maintain effectually the liberty, sovereignty and independence, absolute and unlimited, of the United States, as well in matters of government as of commerce." There were several reasons. The two parties, France and the United States, engaged not to lay down their arms until the independence of the United States should be attained. The explicit acknowledg-

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ment of their independence by Great Britain would show, that for the essential and direct object of the alliance, there was no necessity for continuing the war. But since making this Treaty of Alliance with the United States, France had formed other connexions, with whose views we had no concern, and for whose sake we were not bound to postpone the offered peace. We have seen the explicit avowal of the King of France that he entered into a Treaty with the United States with the view to promote the safety and interest of his kingdom and subjects, by diminishing the power of England: but in doing this, and eventually facilitating our independence of Great Britain, it became apparent that there would be no objection to our dependence on France, particularly in "leaving the King master of the terms of the Treaty of Peace." And to keep us thus far dependant was manifestly the object of certain measures of the French Court calculated to deprive the United States of an immense western territory; of the navigation of the Mississippi, and of the fisheries, except on our own coast.

A combination of facts and circumstances leave no doubt of the intentions of the French Court as to the objects above-mentioned. I cannot undertake the lengthy detail, and will only just mention in regard to territory, what was proposed and urged by one whose official station rendered it impossible to believe, that he was expressing only his own sentiments; or that he was not acting by the direction of the French Court. He proposed, what he called a conciliatory line between the United States and Spain. This was to begin at the division of East from West Florida, and run thence to fort Toulouse on the river Alabama; thence by different courses to Cumberland river, and down the Cumberland to the Ohio. It was insisted that the United States could have no pretensions westward of this line. That "as to the course and navigation of the Mississippi, they followed the property, and would belong therefore to the nation to which the two banks belonged; the United States could have no pretensions, not being masters of either border of the river;" and that "as to what respects the lands situated to the northward of the Ohio, there was reason to presume that Spain could form no pretensions thereto: their fate must be regulated with the Court of London." It is certain that, originally, Spain made no pretensions to any lands eastward of the Mississippi to the northward of the Floridas; and it is clear that the idea of her finally making the claim, was suggested by the Court of France.

We are now prepared to understand the declarations made in the instructions of Citizen Genet, Minister Plenipotentiary from the French Republic to the United States. These instructions are dated the 4th of January, 1793, and were published in December of that year, in Philadelphia, by Mr. Genet, in vindication of his extraordinary measures, which had induced our Government to desire his recall. In these instructions we find the following passages: "The Executive Coun-

cil has called for the instructions given to Citizen Genet's predecessors in America, and has seen in them, with indignation, that at the very time the good people of America expressed their gratitude to us in the most feeling manner, and gave us every proof of their friendship, Vergennes and Montmorin thought that it was right for France to hinder the United States from taking that political stability of which they were capable; because they would soon acquire strength, which it was probable they would be eager to abuse." "The same Machiavelian principle influenced the operations of the war for independence—the same duplicity reigned over the negotiations for peace."

We see, then, that in forming connexions with us in 1778, the Court of France, the actual organ of the nation, had no regard to the interest of the United States, but that their real object was, by seizing the occasion of dismembering the British empire, to diminish the power of a formidable rival; and that when, after we had carried on a distressing war for seven years, the great object for which we had contended—*independence*—was within our reach, that Court endeavored to postpone the acknowledgment of it by Great Britain, and eventually to deprive us of its fairest fruits—a just extent of territory, the navigation of the Mississippi, and the fishery.

Such being the motives and conduct of France, what inspired our truly grateful sentiments towards that nation? The ardent affection, the sincere friendship of Americans to Frenchmen. We were engaged in a common cause against Great Britain. We received loans of money; we were aided by troops and ships in attacking and conquering the common enemy in the bosom of our country; and this association in war produced acquaintances and personal friendships; and, experiencing these benefits, we gave way to our feelings, without inquiring into the motives from which they were rendered.

But why are we so often reminded of the debt of gratitude? Is it really because more than gratitude—because compensation is expected to cancel it? If compensation is the object, the Treaty of Alliance has absolved the claim: "The contracting parties declare that, being resolved to fulfil, each on his own part, the clauses and conditions of the present Treaty of Alliance, according to its own power and circumstances, there shall be no after claim of compensation on one side or the other, whatever may be the event of the war."

I am here naturally led to notice Mr. Adet's charge already mentioned—That we have not offered to France the succors which friendship might have given, without compromising the Government.

If Mr. Adet had specified the kind of succors which might thus have been offered, we could better judge of the correctness of his assertion.

But is it true that we have rendered no succors to France? Read the following passages in the Secretary of State's letter of the 16th of August, 1793, to Mr. Morris: "We recollect with satis-

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'faction, that in the course of two years, by unceasing exertions, we paid up seven years arrearages and instalments of our debt to France, which the inefficacy of our first form of Government had suffered to be accumulating; that, pressing on still to the entire fulfilment of our engagements, we have facilitated to Mr. Genet the effect of the instalments of the present year, to enable him to send relief to his fellow-citizens in France, threatened with famine; that, in the first moment of the insurrection which threatened the colony of St. Domingo, we stepped forward to their relief with arms and money, taking freely on ourselves the risk of an unauthorized aid, when delay would have been denial; that we have given the exclusive admission to sell here the prizes made by France on her enemies in the present war, though unstipulated in our Treaties, and unfounded in her own practice, or in that of other nations, as we believe."

To this detail I have to add, that of all the loans and supplies received from France in the American war, amounting nearly to fifty-three millions of livres, the United States, under their late Government, had been enabled to pay not two millions and a half of livres; that the present Government, after paying up the arrearages and instalments mentioned by Mr. Jefferson, has been continually anticipating the subsequent instalments, until, in the year 1795, the whole of our debt to France was discharged, by anticipating the payment of eleven millions and a half of livres; no part of which would have become due until the 2d of September, 1796, and then only one million and a half; the residue at subsequent periods; the last not until the year 1802.

There remain yet various passages in Mr. Adet's notes on which some observations are to be made.

In my letter of the 1st of November last, in answer to Mr. Adet's note of October 27th, in which he communicated the decree of the Executive Directory of the 2d of July last, declaring that the flag of the Republic of France should treat the flag of neutrals in the same manner as these should suffer it to be treated by the English, I asked an explanation of the decree, mentioning the circumstances which excited doubts. There seemed to be sufficient cause for inquiry. Had the decree referred to the past captures by the English, our knowledge of them would have been some guide in forming our opinion of the threatened captures by the French; but the operation of the decree was to depend on the future conduct of the English; the French were to treat the flag of neutrals as these shall suffer it to be treated by the English. As this could not be ascertained beforehand, we wished to know whether the restraints then exercised by the British Government were considered as of a nature to justify a denial of those rights which were pledged to us by our Treaty with France? Whether the orders had actually been given to capture the vessels of the United States? And, if given, what were the precise terms of those orders? Mr. Adet, in his reply, says, that I appear not to have understood either the decree of the Directory or his note

which accompanied it. The meaning of the decree is certainly not very obvious. The manner of executing it was declared to depend on a contingency—the future conduct of the English. How were the French cruisers in the four quarters of the world to determine what was the conduct of the English at any given time? If he could have furnished a copy of the orders actually given to French armed vessels under the decree, we might have seen clearly what were the intentions of the Directory. If we are to take the practice of the French armed vessels, and of some of the French tribunals, as the true illustration of the decree, Mr. Adet's own explanation will be very defective. He has specified only two cases—the taking of English (or other enemy's) property on board American vessels, and the seizure of all the goods classed as contraband in our Treaty with Great Britain. In the case of contraband goods, the seizure of them is lawful only when they are destined to the ports of their enemies; and the contraband goods only are liable to confiscation. But the special agents of the Directory in the West Indies order the seizure of all vessels having on board contraband goods, no matter whether destined to an enemy's, or to a neutral, or even to a French port; and when seized, they confiscate not merely the contraband articles, but all other goods, and the vessel herself in which they are laden. They also assign, in their decrees of confiscation, another cause of capture and condemnation—that the American vessel has sailed to or from a port in possession of the English. We are not informed that the English take any neutral vessels for this cause. We have heard of several American vessels being captured and confiscated by the French, merely because they had not a sea-letter, when no doubt could have been entertained of the property being American. Yet it is conceived that the want of a sea-letter was never intended to exclude other proofs of property.

Further: ought we to have imagined that the Executive Directory intended to leave it to the discretion of every privateer, and of every inferior tribunal, to judge what, at any time subsequent to their decree, was the actual treatment received by American vessels from the British? Ought we to have imagined that the decree was formed in such indefinite terms on purpose to give scope for arbitrary constructions, and consequently for unlimited oppression? Ought we to have imagined what Mr. Adet has himself declared to be the meaning of the decree, that the French armed vessels were not to content themselves with capturing American vessels having English property or contraband goods on board, and getting such property and goods condemned by their tribunals, but if any English commanders were to practice "vexations" towards Americans, that Frenchmen were to do the same? Ought we to have imagined that the Directory intended the citizens of France should be encouraged to take revenge on their friends for the outrages of their enemies? And what is to limit these vexations? If one English commander in a hundred perversely



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and wantonly abuses his power, is every French officer to become his rival in dishonor? Or, if we are to suffer only measure for measure, (and surely the decree goes not beyond this,) who is to designate the every hundredth French officer who is to be the instrument of similar oppression?

But French armed vessels are to make all these captures in violation of the Treaty, and we are to suffer all these vexations in violation of reason and humanity, while we endure them from the English "without an efficacious opposition!" And what opposition will be deemed efficacious? For all captures made by the British contrary to the Law of Nations we have, agreeably to that law, demanded satisfaction. The British have engaged to make us satisfaction, and Commissioners are now sitting to liquidate those demands. What opposition could have been more efficacious? What further opposition can be lawful?

Instead of further comments on this subject, let me present to you some passages in Mr. Adet's letter of the 14th of July, 1795. In this letter he communicated to the Secretary of State the decree of the Committee of Public Safety of the \* 3d January, 1795, repealing the 5th article of the decree of the † 15th of November, 1794. The latter violated our Treaty by subjecting the property of the enemies of France on board American vessels to capture, and by adding to the list of articles contraband. It was therefore repealed by the former. Mr. Adet seized this occasion to make the following declaration: "You will see, sir, (said he,) in both [the decrees] the undisguised disposition and sincere desire of the French Government religiously to observe the engagements it has contracted with its allies, and its readiness to redress infractions, which have never taken place but from the impulse of circumstances." "It is amidst her triumphs that the Republic loves to give this striking mark of its fidelity. Victorious France knows no other concern than that of justice—no other diplomatic language than that of truth." To this truth, to this justice, to this fidelity, we now make our appeal.

From the style of Mr. Adet's complaint of the British being suffered to arm in our ports, it might be imagined the instances were numerous. None were permitted; the actual armaments were few, and are as old as the year 1793, and were represented by Mr. Genet to the Secretary of State. "What answer (asks Mr. Adet) did the Government give to the representations of the Minister of the French Republic in this respect? It said that these vessels sailed too suddenly; that it was not able to cause them to be stopped." The answer was given by the Secretary of State in different words: † "Those from Charleston and Philadelphia have gone off before it was known to the Government, and the former, indeed, in the first moments of the war, and before preventive measures could be taken in so distant a port." In the case of the Trusty, Captain

Hale, at Baltimore, the Governor of Maryland having been informed that she had been buying guns, had given orders to examine the fact; "but she got off before the officer could get on board, having cleared out three or four days before." I have not observed that Mr. Genet ever renewed his complaint with regard to any of these vessels; whence I suppose he was satisfied with the answer, as he indeed ought to have been. The two English vessels that sailed from Philadelphia escaped even the vigilance of the French Consul,\* both had departed many days before he had been informed of them. This is stated by the Consul himself in his report of the 21st of June, 1793, to Mr. Genet. And yet the Government is now charged by Mr. Adet with violating the Treaty, because it did not stop them! Although the officers of the United States had been required to be watchful, and to report all illegal armaments in our ports, yet it was natural for the Government to expect to derive information from the French Consuls, who doubtless were charged by their own Government to be particularly vigilant in regard to all attempts at such armaments by the enemies of the Republic. Mr. Adet remarks, that "some inhabitants of the United States had aided in these illegal armaments" of the enemies of France, and asks, "What measures were taken against them? Was any search made to discover them—to prosecute them? Never." Yet the very letter from Mr. Genet to the Secretary of State, in which and its enclosures Mr. Adet has found this subject of complaint, suggests a different conclusion: † "I learn with pleasure, (says Mr. Genet,) by your letter of the 23d of this month, [June, 1793,] that the Government of Georgia have caused to be stopped a vessel armed in that State for the purpose of cruising against the French, and that the persons interested in this vessel will be prosecuted."

I shall say but a few words on the subject of the letters of which Mr. Adet complained that they remained unanswered. The first (of September 29, 1795) contained those reproachful insinuations which were recited in my letter of the 1st of November last. Why were these introduced by him if they were not to be applied? An answer was draughted on the subject of his letter, with animadversions on those insinuations: but desiring to avoid irritations, the answer was not sent. It was deemed of the less consequence, seeing in my letter to Mr. Monroe of the 12th of September, 1795, the sentiments and reasonings of the Government on that and other subjects relating to France, had been fully expressed, to enable him to make immediate communications to the French Government itself; and it was hoped that the information given in that letter, and in others written to him the preceding Summer, would have furnished materials (and that these materials would have been timely used) for such representations as would have satisfied the French Government that the United States, in forming the Treaty with Great Britain, had only

\* 14 Nivose, 3d year. † 25 Brumaire, 3d year.  
† State Papers, p. 41. June 20, 1793.

\* State Papers, p. 41.

† State Papers, p. 40.



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exercised an indisputable right; and neither by that Treaty, nor any other act, had infringed a single article of our Treaties with France.

On the subject of the impressment of our seamen, mentioned in Mr. Adet's letters of March and April, 1796, I shall only add, that nothing was more notorious than that those impressments had excited universal resentment in the United States, and been the subject of repeated remonstrance from our Government to the British Court. Thus, in Mr. Pinckney's note to Lord Grenville, in August, 1793, which was published here that year, in the same collection of State papers with Mr. Jefferson's letter of September 7th,\* which Mr. Adet has quoted, and on the fifth page next succeeding it, we find the following: "Under this head it may be observed, that for want of arrangements being made for the security of American seamen in the ports of this country, (England,) they are subject to the various hardships Mr. Pinckney has so frequently detailed to Lord Grenville. And in the next page, in his letter to Mr. Jefferson, Mr. Pinckney says: The protection afforded our seamen remains also on the same footing; they (the British Government) profess a willingness to secure to us all real American seamen, when proved to be such; but the proof they will not dispense with." To remove as far as possible the embarrassments arising from this cause, and more effectually to protect our seamen, was the object of a bill pending in Congress, and the subject of public debate, at the time I received Mr. Adet's letters. This bill was passed into a law.

All these acts demonstrated that the Government did not assent, but on the contrary that they resisted the impressment of American seamen: and this resistance has been continued; consequently, we cannot be charged on this ground with a violation of our neutrality.

Among the former subjects of complaint not now renewed by Mr. Adet, is that against the Government for permitting the purchase and exportation of horses, by British agents, in the course of the last Winter and Spring. The correspondence on this subject is lengthy; and yet the question lies within a very narrow compass.

Perhaps no rule is now better established, than that neutral nations have a right to trade freely with nations at war; either by carrying and selling to them all kinds of merchandise, or permitting them to come and purchase the same commodities in the neutral territory; in the latter case, not refusing to one Power at war what it permits another to purchase; with this exception in respect to articles contraband, that if the cruisers of one of the belligerent Powers meet at sea with neutral vessels laden with such articles destined to the ports of their enemies, the neutral vessels may be captured, and the contraband goods will be lawful prize to the captors; but the residue of their cargo and the vessels themselves are to be discharged.

But if there were any doubt on this point under

the Law of Nations, there can be none in relation to France and the United States; because this matter is specially regulated by their Treaty of Commerce. This Treaty, so far from restraining the trade of either party remaining neutral, while the other is engaged in war, provides regulations agreeably to which it should be conducted.

The 12th and 13th articles authorize either party that is at war, to stop the neutral merchant vessels of the other destined to the ports of an enemy, upon just grounds of suspicion, concerning the voyage or the lading. If, on examining the ships' papers, it appears there are any contraband goods on board, "consigned for a port under the obedience of his enemies," she may be carried into port, and the contraband articles may, by regular proceedings in the Admiralty, be confiscated: "saving always as well the ship itself as any other goods found therein, which by this Treaty are to be esteemed free; neither may they be detained on pretence of their being as if they were infected by the prohibited goods; much less shall they be confiscated as lawful prize." It further provides, that if the master of the neutral ship shall be willing to deliver the contraband goods to the captor, and the latter receives them, then is the neutral ship to be forthwith discharged and allowed freely to prosecute her voyage. The 23d article goes further. If the neutral ship shall have on board the enemies of the other, "they are not to be taken out unless they are soldiers in actual service."

These articles are so explicit, it may seem strange that a doubt should arise concerning them. I presume no doubt did arise: for Mr. Adet, overlooking those provisions of the Treaty, demanded that the Government should stop the exportation of horses by the British, upon the principle that it was a neutral duty, required by the Law of Nations. An answer was given to his demands, in which the regulations of our Treaty with France were particularly brought into view, as well as the rules of the Law of Nations. Mr. Adet, however, after some time renewed his claims; but again kept the Treaty out of sight. An answer was given to the renewed claims; and we heard no more on the subject until the French privateers in the West Indies began to capture American vessels which had horses on board. You will find among the documents on this subject the copy of a decree of the citizens Victor Hugues and Lebas, the special agents of the Executive Directory in the Windward islands, condemning an American vessel and her entire cargo for having a small number of horses on board, not bound to their enemy's, but to a neutral port. And these special agents ground their decree on the advice they received from Mr. Adet, under the date of 14th Messidor, being July 2, 1796. This vessel and cargo were thus condemned without the sight of a single paper belonging to her: the master had them in his pocket, and would have brought them home, but for the recollection of the interpreter, some hours after the sentence of condemnation had been passed. These citizens exercise, indeed, a very brief authority. The

\* Mr. Adet by mistake dates it September 12th.

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process in the case of a second American vessel, which to complete her lading had taken on board nineteen horses, but which was also bound to a neutral port, was in this form: The captain having come before one of the agents, he, without any previous examination or hearing, addressing himself to the captain, pronounced sentence, in these words: "I have confiscated your vessel and cargo," closing the sentence with opprobrious language.

Mr. Adet, on the 18th of May last, revived his predecessor's claim of right by Treaty to sell their prizes in our ports. This occasioned the correspondence on this subject which you will find among the documents collected on this occasion. He contents himself, however, with considering it as a right granted not positively, but by implication. That is, because the Treaty forbids the enemies of France to sell their prizes in our ports; therefore it grants to her a right of selling her prizes. As if my friend's denial of a favor to my enemy, was in fact a grant of the same favor to me. The simple statement of the ground of the claim would seem sufficient to show that the Treaty will not support it. That sales of French prizes have been at all permitted, has been owing to the indulgence of the Government. This indulgence was continued until it interfered with a new positive obligation: an obligation precisely the same that France herself contracted eight years subsequent to her Treaty with us, and with the same Power. This obligation is found in the twenty-fourth article of our Treaty, and the sixteenth of the French Treaty with Great Britain. Thus France and the United States alike engaged to permit no enemy of Great Britain to arm privateers in their ports, or to sell their prizes there, or in any manner to exchange them. Consequently had France remained at peace, and we engaged in a war with Great Britain, our privateers would not be permitted to sell their prizes in French ports.

And by the maritime law of France,\* prizes, except they are taken from her enemies, can stay in her ports no more than twenty-four hours, unless compelled by tempest to remain longer; and the sales of such prizes are forbidden under severe penalties. But, notwithstanding the certainty of our right to forbid the sales of prizes in our ports, and notwithstanding the express legal command of the Chief Justice of the United States holding a Circuit Court in South Carolina, in May last, prohibiting the sale of a particular prize (the British ship *Amity*) at Charleston, the French agents sold the prize vessel, and the sale received the formal sanction of the French Consul. Yet even this affair has been made a subject of complaint by Mr. Adet, because the Collector of that port refused a clearance to the prize vessel thus sold in defiance of the authority of the United States; and because he also delayed, until, in a new case, he should get advice to permit the exportation of the cargo of the prize ship which on a survey had been reported to be irreparable.

Indeed the French Minister has discovered an aptitude to complain. I may cite as instances his letters of the 9th January and 3d of March 1796; the former because the colors of France, which he had presented to the United States, were not permanently fixed and displayed before Congress; the latter, because some printers of almanacs or other periodical publications in the United States, in arranging the names of the Foreign Ministers and Agents resident among us, had placed those of Great Britain before those of France and Spain. Mr. Adet desired my declaration in writing that the Government of the United States had no concern in printing the works in which the agents of the French Republic were registered after those of Great Britain, and that the works themselves might be suppressed. I gave him an answer in writing with my consent to his publishing it in the newspapers, agreeably to his request. The answer states, that in matters of this kind the Government did not and could not interfere. With regard to the colors, I must observe that, in what concerns our foreign relations, the President being the sole representative of the people of the United States, they were properly presented to him. He received them with all possible respect and directed them to be deposited with our national archives, that both might be preserved with equal care.

It remains to notice a summary of complaints exhibited by M. De la Croix, the French Minister for Foreign Affairs, to Mr. Monroe, our Minister at Paris, under the date of March 9th, 1796; to which the latter returned an answer, under the date of March 15th. These were inclosed in Mr. Monroe's letter of the 2d of May and received at the Department of State on the 19th of July. Copies of both papers and an extract of so much of his letter as relates to this subject are among the documents now collected.

First complaint—the inexecution of Treaties.

1st. The courts of justice have taken and still take cognizance of prizes brought by French privateers into the ports of the United States.

2d. English ships of war have been admitted into those ports, even in cases prohibited by the 17th article of the Treaty; that is, when they have made prizes on the French Republic or its citizens; and have also conducted thither their prizes.

3d. The Consular Convention has in two points become illusory—1st. For want of giving to the Consuls the means of having their decisions executed in all disputes between Frenchmen, of which the Consuls have the exclusive cognizance: 2d. Because the Judge charged with issuing warrants for apprehending French mariners who desert, require the original roll of the crew to be first produced: 3d. The arrest of the corvette *Le Cassius* and her captain.

Second complaint—The impunity of the outrage committed on the Republic in the person of its Minister, the Citizen Fauchet, by the English ship *Africa*, in concert with the vice-consul of that nation, within the waters of the United States.

Third complaint—"The Treaty concluded in

\* Valin, vol. 8, p. 272.

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November 1794, between the United States and Great Britain."

Excepting the second complaint, relative to the attempt of the English ship *Africa* to seize Mr. Fauchet and his papers, and the 3d article under the first complaint relative to the Consular Convention, all the charges in this summary have been already examined, and we think proved to be unfounded.

As to the Consular Convention, many inconveniences would attend the giving to the Consuls a jurisdiction to the extent contended for on the part of the French Republic, to be exercised by French Consuls in the United States, and consequently by American Consuls in France. The inconveniences are manifestly so great as to require very explicit language in the convention of the two nations on this subject, to authorize the conclusion that such enlarged jurisdiction was intended. It would be to erect in foreign countries, complete courts of justice, with effectual process to compel the appearance of parties and witnesses, and to execute their decisions. And as the transactions in commerce and navigation could not in the nature of things be confined to the foreigners alone, the citizens of the country must often be necessary witnesses to those transactions, and of course rendered amenable to this foreign jurisdiction in their own country; whereas the jurisdiction demanded is only of French Consuls over French citizens in the United States, and reciprocally of American Consuls over the citizens of the United States in France. From these considerations a presumption would arise, that the jurisdiction contemplated in the Consular Convention was to be merely voluntary, but at the same time exclusive of the courts of the country. An examination of the convention we believe will support this and no other construction. The 12th article provides that all differences and suits between Frenchmen in the United States, and between citizens of the United States in France, and particularly all disputes between seamen and their captains, and between captains of different vessels of their nation, shall be determined by the respective Consuls, either by a reference to arbitrators, or by a summary judgment and without costs. "No officer of the country, civil or military shall interfere therein, or take any part whatever in the matter." This last clause alone would seem sufficient to repel the claim we are considering. Sheriffs, marshals, and their deputies cannot aid in the execution of consular decisions, because they are "officers of the country," expressly forbidden to "take any part in the matter." But was it meant that the laws should give Consuls the power to appoint such executive officers of their own nation? We find no such thing in the convention. On the contrary, in the case of deserters from vessels mentioned in the 9th article, whom the Consuls are authorized to cause to be arrested, they are expressly directed to apply in writing to the "courts, judges, and officers, competent," to make the arrests; meaning the courts, judges, and officers of the country where the Consuls reside. Besides, if

power could be given to Consuls to appoint officers to execute their decisions, these officers must of course have their fees of compensation, to be paid by one or other of the parties: but the 12th article declares that the consular judgments shall be "without costs." To these observations I subjoin the deliberate opinions of two respectable lawyers, Mr. Harrison of New York, and Mr. Bradford, the late Attorney General of the United States.

"I have considered the 12th article of the convention between his late most Christian Majesty and the United States of America, and also the act of Congress concerning Consuls and Vice-Consuls, as far as it prescribes the duty of Marshals of the United States, and it is my opinion that the Marshals are not bound by law to execute any sentence of a French Consul, arising under the said article.

RICHARD HARRISON,

*U. S. Attorney for the N. Y. District.*

"NEW YORK, 6th March, 1794."

"I have considered the convention and act above referred to, and I perfectly coincide in the opinion given by the Attorney of the United States for the district of New York.

WILLIAM BRADFORD.

"PHILADELPHIA, 14th March, 1794."

The other complaint under this head is, that the Judges who are charged (by an act of Congress) to issue warrants of arrests against deserters from French vessels have required the original ship's roll to prove that the men alleged to have deserted were a part of the crew; in contempt of the 5th article, which admits in the tribunals of both countries copies certified by the Consul.

If we look at the 9th article of the Consular Treaty we shall see that the Consuls who demand the arrests of deserters from vessels of their nation, must prove "by an exhibition of the registers of the vessel or ship's roll, that those men were a part of the crew." It is apparent that the original roll, and not a copy, is here referred to; nor indeed is the contrary pretended: but it is said that the 5th article admits certified consular copies as evidence in the courts of both nations. But the 5th article appears to have no relation to the subject of the 9th. It stipulates that "the Consuls respectively shall have the exclusive right of receiving in their chancery, or on board of vessels, the declarations and all other acts which the captains, masters, crews, passengers, and merchants of their nation may choose to make there, even their testaments and other disposals by last will: and the copies of the said acts, duly authenticated by the said Consuls, under the seal of their consulate, shall receive faith in law, equally as the originals would." The ship's roll (or shipping paper) of a vessel's crew is not an act to be done before the Consul, but the evidence of a private agreement between the captain of a vessel and his crew; and when he alleges that any of them have deserted, the 9th article requires this original evidence of the fact

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to be produced to the Judge as the ground on which he shall issue his warrant to arrest them. And this is the construction put on this article by the Judges; and, for aught I know, without any diversity of opinion. The difference alleged by Mr. Fauchet in one of his letters to the Secretary of State I have inquired into, and find he was under a mistake. And the mistake arose probably from this circumstance, that when from the information of the Consul there was danger that the deserter would wholly escape unless instantly apprehended, the Judge has issued his warrant to arrest and bring before him the alleged deserter, but when brought, that Judge has not committed the man, or delivered him to the Consul, unless the original roll was produced to prove him one of the ship's crew.

As to the outrage against Mr. Fauchet by the Africa man-of-war, in attempting to seize him and his papers within the jurisdiction of the United States, and Captain Home's insult on their authority, I do not know what measures more efficacious could have been taken by the Executive than those which were adopted, to obtain satisfaction. After waiting a reasonable time for explanations on the part of Captain Home, and of Mr. Moore the English Vice-Consul, and receiving none, the President revoked the Exequatur of the Vice-Consul, and desired the Governor of Rhode Island, where the Africa had been lying, to communicate to Captain Home the demand of the President—that he should immediately remove from a station within the jurisdiction of the United States where he had violated their rights; and further to make known to him, that in forty-eight hours after the requisition should be communicated to him all intercourse between the citizens of the United States and his ship would be forbidden.

It is very true that the Exequatur of the British Vice-Consul was withdrawn expressly for his knowingly transmitting to the Governor of Rhode Island a most insulting letter from Captain Home; because although he was on board the Africa when the attempt was made against Mr. Fauchet, the President had no evidence of his co-operation. The Minister of the United States in London, was directed to represent to that Court the conduct of Captain Home, and to demand his exemplary punishment. It was not to be expected that he would be judged unheard; and consequently much delay must have ensued. From her station on the coast of North America, the Africa went to the West Indies. Seeing some time since, by an article in the newspapers, that the Africa was returned to England, our Minister in London was reminded of this affair, that the demand of satisfaction might be renewed.

Although the subject of M. De la Croix's third and last complaint (the British Treaty) has been already discussed, allow me here to make a few remarks. He says "it will be easy to prove that the United States, in this Treaty, have knowingly and evidently sacrificed their connexions with the Republic, and the most essential and least contested prerogatives of neutrality." The re-

verse of what the Minister considers so easy to prove, we think has been demonstrated. Our legally binding connexions with France we always considered as being formed by our Treaties; and we may say with confidence that we have not "knowingly" violated these in a single article. If individuals have at any time infringed them, the Government has been sincere and diligent in its endeavors to redress the wrong. If the ties of affection, of warm enthusiastic friendship, have been weakened, the cause is to be sought for not in the acts of the American Government, which have been constantly directed to the preservation of our peace with all nations. These ties did not depend on Treaties. It was our friendship to France, contracted during our Revolution, and our partiality for the cause of liberty and self-government for which she engaged in her own, that made us endure numerous injuries almost without complaining. We were not willing to ascribe to the Republic, the outrages of her Ministers against the laws, the sovereignty, and the dignity of the United States, or the exceptionable style of their communications. Even when for such flagrant aggressions, often repeated, we desired the recall of one of her Ministers, it was done in the most soothing language; and in the meantime, lest the interest of the Republic should suffer, he was permitted to exercise his functions in all cases in which those interests could be affected. When his successor arrived he officially requested that the offending Minister might be apprehended, that he might be sent to France: but the Government, satisfied by his removal, declined the measure. Some irritations were experienced from that successor—what sensations have been produced by Mr. Adet's notes, your own feelings, on the perusal, will enable you to judge. If he intended to excite the general indignation of our citizens, he is not disappointed; but it is presumed this was not the object. After an exhibition of complaints in a style so exceptionable, he could add but one more improper act, that of publishing his notes in the newspapers: he had scarcely transmitted them to the Executive, before he forwarded them to the printer for publication.

From the foregoing statement, we trust it will appear, that there has been no attempt in the Government of the United States to violate our Treaty or weaken our engagements with France: that whatever resistance it has opposed to the measures of her agents, the maintenance of the laws and sovereignty of the United States, and their neutral obligations, have rendered indispensable. That it has never acquiesced in any acts violating our rights of interfering with the advantages stipulated to France, but, on the contrary, has opposed them by all the means in its power; that it has withheld no succors from France that it was compatible with the duties of neutrality to grant; that, as well by their independent political rights as by the express provisions of the Commercial Treaty with France, the United States were at full liberty to enter into Commercial Treaties with any other nation, and consequently with Great

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Britain; that no facts manifesting a partiality to that country have been, and I add that none such can be, produced.

Of the propriety and justness of these conclusions you will endeavor to satisfy the French Government; and, conscious of the rectitude of our own proceedings during the whole course of the present war, we cannot but entertain the most sanguine expectations that they will be satisfied. We even hope that this has been already accomplished, and that you will be saved from the pain of renewing a discussion which the Government has entered upon with regret. Your mission and instructions prove its solicitude to have prevented this necessity, and the sincerity of its present hopes that your endeavors, agreeably to those instructions, "to remove jealousies and obviate complaints, by showing that they are groundless; to restore confidence so unfortunately and injuriously impaired; to explain the relative interests of both countries, and the real sentiments of your own"—have been attended with success. And, as a consequence thereof, we rely on the repeal of the decrees and orders which expose our commerce to indefinite injuries—which militate with the obligations of Treaties, and our rights as a neutral nation.

I have the honor to be, with great respect, sir, your most obedient servant,

TIMOTHY PICKERING.

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FRENCH SPOILIATIONS.

Report of the SECRETARY OF STATE on the Memorial of sundry citizens of the United States residing in the city of Philadelphia, referred to him by order of the House on the 7th of May, 1796, and laid before the House of Representatives the 27th February, 1797.

The Secretary of State, in pursuance of an order of the House of Representatives of the 7th of May, one thousand seven hundred and ninety-six, on the memorial and petition of sundry citizens of the United States residing in the city of Philadelphia, relative to the losses they had sustained by the capture of their property by French armed vessels on the high seas, or in consequence of the forced or voluntary sales of their provisions and merchandise to the officers of the colonial administrations of the French Republic, having examined the same, together with accounts of similar losses sustained by American citizens from the French, in the European seas, or in the ports of France, which, in the details, were necessarily connected with the former—respectfully reports:

That, since the commencement of the present war, various and continual complaints have been made by citizens of the United States to the Department of State, and to the Ministers of the United States in France, of injuries done to their commerce under the authority of the French Republic and by its agents. The injuries were—

1. Spoliations and maltreatment of their vessels at sea by French ships of war and privateers;

2. A distressing and long-continued embargo laid upon their vessels at Bordeaux, in the years one thousand seven hundred and ninety-three and one thousand seven hundred and ninety-four;

3. The non-payment of bills and other evidences of debts due, drawn by the colonial administration in the West Indies;

4. The seizure or forced sales of the cargoes of their vessels, and the appropriating of them to public use, without paying for them, or paying inadequately, or delaying payment for a great length of time;

5. The non-performance of contracts made by the agents of Government for supplies;

6. The condemnation of their vessels and cargoes under such of the marine ordinances of France as are incompatible with the Treaties subsisting between the two countries; and—

7. The captures sanctioned by a decree of the National Convention of the ninth of May, one thousand seven hundred and ninety-three, (hereto annexed, and marked A,) which, in violation of the Treaty of Amity and Commerce, declared enemy's goods on board of their vessels lawful prize, and directed the French ships of war and privateers to bring into port neutral vessels laden with provisions, and bound to an enemy's port. It may be proper to remark here, that this decree of the Convention directing the capture of neutral vessels laden with provisions, and destined for enemy's ports, preceded, by one month, the order of the British Government for capturing "all vessels laden with corn, flour, or meal, bound to any port in France, or any port occupied by the armies of France."

Such was the general nature of the claims of the citizens of the United States upon the French Republic, previous to the departure of Mr. Monroe as a Minister Plenipotentiary to France, in the Summer of 1794, and since his residence there. To him were entrusted the documents which had been collected to substantiate particular complaints; and he was instructed to press the French Government to ascertain and pay what might be found justly due. From time to time, as additional cases arose, they were transmitted to him, with the like view. In September of that year, he assigned to his Secretary, Mr. Skipwith, (with the provisional appointment of Consul for Paris,) the charge of stating the cases, and placing them in the proper train of settlement—reserving to himself the duty of fixing general principles with the Government, and of patronising and superintending his proceedings.

In conformity with the direction of the Minister, Mr. Skipwith shortly afterwards made a general report on the injuries and difficulties and vexations to which the commerce of the United States was subjected by the regulations and restraints of the French Government, or by the abuses practised by its agents—to which he added a number of particular cases. A copy of the whole (marked B) is hereto annexed. This report was laid before the French Government, and, added to the various representations of Mr. Monroe and his predecessor, it produced a decree of the joint committees



*French Spoliations.*

of Public Safety, Finance, Commerce, and Supplies, dated the 15th November, one thousand seven hundred and ninety-four, a copy of which (marked C) is annexed. This decree, apparently calculated to remedy many of the evils complained of, afforded but a very partial—in respect to compensations, a comparatively small—relief; while it continued in force the principle of the decree of the ninth of May, one thousand seven hundred and ninety-three, which rendered liable to seizure and confiscation the goods of enemies found on board neutral vessels. American vessels had been declared exempt from that part of the decree of the ninth of May, which authorized the seizing of vessels going to an enemy's port with provisions, by the decree of the National Convention of the twenty-seventh of July, one thousand seven hundred and ninety-three.

On the appearance of the decree of the ninth of May, the American Minister at Paris remonstrated against it, as a violation of the Treaty of Commerce between France and the United States. In consequence thereof, the Convention, by a decree of the 23d of the same month, declare, "That the vessels of the United States are not comprised in the regulations of the decree of the 9th of May." M. le Brun, the Minister for Foreign Affairs, on the 26th of May, communicated this second decree to our Minister, accompanying it with these words: "You will there find a new confirmation of the principles from which the French people will never depart, with regard to their good friends and allies the United States of America." Yet two days only had elapsed before those principles were departed from; on the 28th of May the Convention repealed their decree of the 23d. The owners of a French privateer that had captured a very rich American ship (the *Laurens*) found means to effect the repeal, to enable them to keep hold on their prize. They had even the apparent hardness to say, beforehand, that the decree of the 23d would be repealed.

The American Minister again complained. So on the 1st of July the Convention passed a 4th decree, again declaring "that the vessels of the United States are not comprised in the regulations of the decree of the 9th of May; conformably to the 16th [it should be the 23d] article of the Treaty concluded the 6th of February, 1778." The new Minister for Foreign Affairs, M. Desforgues, accompanies this new decree of July 1st, with the following expression: "I am very happy in being able to give you this new proof of the fraternal sentiments of the French people for their allies, and of their determination to maintain to the utmost of their power the Treaties subsisting between the two Republics." Yet this decree proved as unstable as the former. On the 27th of July it was repealed.

The next decree on this subject was that of the joint committees of the 15th of November, 1794, already mentioned. Then followed the decree of the Committee of Public Safety, of the 4th of January, 1795, (14th Nivose, 3d year,) repealing the 5th article in the decree of the 15th November, preceding, and in effect the articles in the original

decree of the 9th of May, 1793, by which the Treaty with the United States had been infringed. It is not necessary for the Secretary to add that the decree of the 4th of January, 1795, has been repealed by the decree of the Executive Directory of the 2d of July, 1796; under color of which are committed the shocking depredations on the commerce of the United States, which are daily exhibited in the newspapers. The agents of the Executive Directory to the Leeward islands, (Leblanc, Santhonax, and Raimond,) on the 27th of November, 1796, passed a decree (marked C C) for capturing all American vessels bound to or from British ports. The Secretary presumes this is not an arbitrary unauthorized act of their own, but that it is conformable to the intentions of the Executive Directory; the privateers of the French Republic in Europe having captured some American vessels on the same pretence; and the consul of the Republic at Cadiz, having explicitly avowed his determination to condemn American vessels on that ground, pleading the decree of the Directory for his authority.

The Secretary has already intimated, that the decree of the 15th of November, 1794, was not followed by the extensively good effects expected from it. By a communication from Mr. Skipwith, of the 10th of last September, (the latest communication from him in answer to the Secretary's request for information,) it appears that the claims for detention of 103 American vessels by the embargo at Bordeaux remained undetermined; no funds having been appropriated by the Legislature for payment of them; and that none of the bills drawn by the colonial administrations in the West Indies had been paid to him; the Treasury having tendered payment in assignats at their nominal value, and afterwards in another species of paper called mandats, which had suffered a great depreciation, even before they were put into circulation; both which modes of payment were refused to be accepted. The progress made by Mr. Skipwith, in the adjustment of other claims, so far as known to the Secretary, will appear in the annexed printed statement, (marked D,) copies of which were transmitted ten months ago to the offices of the principal collectors of the customs, from the Department of State, for the information of our mercantile citizens.

That nothing might be left undone which could be accomplished by the Executive, the attention of General Pinckney, the present Minister of the United States to France, was particularly directed to the subject of these claims; but the interval which has elapsed since his departure, has not admitted of any interesting communication from him on this subject.

In connexion with other spoliations by French armed vessels, the Secretary intended to mention those committed under a decree dated the first of August, 1796, issued by Victor Hugues and Lebas, the special agents of the Executive Directory, to the Windward islands, declaring all vessels loaded with contraband articles of any kind, liable to seizure and confiscation, with their entire cargoes; without making any discrimination in



*French Spoliations.*

favor of those which might be bound to neutral, or even to French ports. This decree has been enforced against the American trade, without any regard to the established forms of legal proceedings, as will appear from the annexed deposition (marked E) of Josiah Hempstead, master of the brigantine Patty, of Weathersfield. A copy of the decree (marked F) is also annexed.

The Secretary has also received a printed copy of another decree of the same special agents to the Windward islands, dated the 13th of Pluviose, fifth year, answering to February the 1st, 1797, authorizing the capture of all neutral vessels destined to any of the Windward or Leeward islands in America, which have been delivered up to the English, and occupied or defended by emigrants, naming Martinique, Saint Lucia, Tobago, Demerara, Berbice, and Essequibo; and to leeward, Port-au-Prince, L'Archaye, and Jeremie; declaring such vessels and their cargoes to be good prize; as well as all vessels cleared out vaguely for the West Indies. A copy of this last decree will be added to this report as soon as it shall be translated. All which is respectfully submitted.

TIMOTHY PICKERING.

DEPARTMENT OF STATE, Feb. 27, 1797.

A.

[TRANSLATION.]

*Copy of a decree of the National Convention, of the 9th of May, 1793, 2d year of the French Republic.*

The National Convention, after having heard the report of its Committee of Marine, considering that the flag of neutral Powers is not respected by the enemies of France; that two cargoes of flour having arrived at Falmouth in Anglo-American vessels, and been bought before the war for the service of the French marine, have been detained in England by the Government, which would not pay for it but at a price below what it had been sold for; that a vessel of Papembour, called the Therisia, commanded by Captain Hendrick Koh, loaded with various effects belonging to Frenchmen, was carried into Dover, the 2d of last March, by an English cutter; that a privateer of the same nation carried into the same port of Dover, on the 18th of the same month, the Danish ship Mercury Christianland, Captain Treuchen, which had sailed from Dunkirk on the 17th, with a cargo of wheat for Bordeaux; that the ship John, Captain Shekley, loaded with about six thousand quintals of American wheat, in going from Falmouth to St. Malo, was stopped by a frigate, and carried to Guernsey, where the agents of Government have simply promised to pay the value of the cargo, although it was not on French account; that 101 French passengers, of different professions, embarked at Cadiz, by order of the Spanish Minister, on board the Genoese ship Providence, Captain Ambrose Briasco, to be carried to Bayonne, were shamefully pillaged by the crew of an English privateer; that various reports, which are successively made by the seaport towns of the

Republic, announce that the same acts of inhumanity and injustice are multiplied and repeated with impunity every day along the whole sea coast:

That, under such circumstances, all the Laws of Nations being violated, it is not permissible that the French people should fulfil towards all the neutral Powers in general, the vow they have so repeatedly manifested and constantly make, for the full and entire liberty of commerce and navigation, decrees as follows:

ARTICLE 1. The French ships of war and privateers may stop and bring into the ports of the Republic, such neutral vessels as are loaded in whole or in part, either with provisions belonging to neutrals, and destined for enemy's ports, or with merchandise belonging to enemies.

ART. 2. Merchandise belonging to enemies shall be declared good prize, and confiscated for the benefit of the captors; the provisions belonging to neutrals, and loaded for enemy's ports, shall be paid for, according to their value in the place for which they were destined.

ART. 3. In all cases, neutral vessels shall be released when the unloading of the provisions which are stopped, or the merchandise which are seized is completed; the freight for them shall be paid at the rate stipulated by the persons who shipped them. A just indemnity shall be made in proportion to their detention by the tribunals who have cognizance of the validity of the prizes.

ART. 4. Those tribunals shall be bound, also, to transmit, three days after their sentence, a duplicate of the inventory of the said provisions or merchandise to the Minister of Marine, and another duplicate to the Minister for Foreign Affairs.

ART. 5. The present law, applicable to all the prizes which have been made since the declaration of war, shall cease to have effect after the enemy Powers shall declare free and not liable to seizure, although destined for the ports of the Republic, provisions which may be neutral property, and merchandise loaded in neutral ships, which belongs to the French Government or to French citizens.

B.

PARIS, Vendemiaire,  
3d year, (October, 1794.)

*To James Monroe, Minister Plenipotentiary of the United States of America at Paris.*

SIR: At your request I now lay before you a statement of the innumerable embarrassments and difficulties which our commerce has, for a long time, and continues still to labor under, in the different ports of the French Republic. It is evident if their Government does not soon remedy the incessant abuses and vexations practised daily upon our merchants, vessels, captains, and crews, the trade of the United States with France must cease. I cannot give you an ample detail of all the inconveniences and oppressions which have been thrown upon our commerce; many of the consuls and their agents, to whom

*French Spoliations.*

you have written to forward such documents to my office, having not yet done it; besides, it would take volumes to expose them at full length.

From the communication, however, already received from the different ports, and from the information I have collected from the captains present, I can assure you that there are near 300 sail of American vessels now in the ports of France; all of whom have suffered or are suffering more or less delay and difficulties, of which the examples annexed will afford you a general view. The hardships of which I have chiefly to complain, and out of which there grow incalculable evils, may be developed under four general heads.

1st. The capture, indiscriminately, of our vessels at sea, by the vessels of war of the Republic.

2d. The impossibility of Americans selling their cargoes and receiving payment at the ports to which they are conducted, or of their own accord arrive.

3d. The difficulties and procrastination which they find in their transactions with the boards of Marine and Commerce.

4th. The non-compliance or, heretofore, delay in fulfilling the contracts made by the agents of the French Republic in America, for supplies of provisions.

The seizure of our vessels at sea often gives rise to the most serious and well-founded complaints. The stripping them of their officers and crews, who are generally replaced by boys and inexperienced hands, in order to be conducted to ports, exposes them to much injury, and sometimes total loss. The confinement of our sailors, taken out of those vessels; the seals upon their cargoes; and, above all, the sending their papers to the Commission of Marine at Paris, involves the most unwarrantable hardships and delays; and I am sorry to add, that all our vessels experience some of these difficulties; and, indeed, such as arrive with cargoes on account of the Republic; months elapsing before the captains can get their clearances and papers, many of which are often lost or mislaid.

As to the second head, the agents of the Commissions of Commerce at the different ports having no power to treat directly for cargoes, it follows that they must write to the Commission at Paris for orders; and, after one or two months' fruitless correspondence, it often happens that the captains are obliged to come up to Paris, where, being ignorant of forms and language, they have to encounter a thousand difficulties.

It would be too tedious to mention all the inconveniences resulting from the third general complaint. In the first place, the delays at the Commission of Marine are incredible. The captains whose vessels are brought into ports by the armed vessels of the Republic, cannot withdraw their papers from the hands of the Marine Agents, but are forced to Paris, to solicit time after time, of the Marine, a report upon them to the Committee of Public Safety. The cruel delays attending this will be illustrated in the examples annexed. The report being made, before it can

reach the latter body, it must have the signature of the commissaries, and go through other formalities; and when it receives the sanction of the Committee of Safety, has to travel nearly the same road back. Judge, sir, of the tedious delay attending this. Indeed you will see cases where the poor captains have been many months in arriving at the above point; and I myself, after having pressed several reclamations for weeks past, have not yet been able to bring one to that issue.

To sell to the Commission of Commerce is still more difficult. When a bargain is concluded with them, an order is issued to the keepers of the public magazines to receive the cargo sold, who often pretend that there is no room to receive it, and frequently they keep the captains waiting weeks before their whim or convenience will induce them to receive it. This point gained, application must then be made at Paris, to the Commission of Commerce, for payment, who refer the captain to their board of agency; they make a report to the Comptabilité of the same Commission; from thence it must go to the Committee of Finance, then to the Committee of Public Safety, from whence it returns to the Comptabilité. This labyrinth of perplexity, of course, throws the captain into the hands of an agent, who preys upon his distress; and, when all these forms are fulfilled, it is not always that the captain can immediately touch his money. If, in the first instance, the Commission will not purchase his cargo on the terms he asks, they tell him he may depart; but, on returning to his vessel, is most commonly prevented from sailing by the agents at the port. If it is mutually agreed that merchandise shall be taken in exchange, the difficulties become greater. If assigns, with permission to export wines and brandy, the captain finds himself taken in; for the Commission will put those very articles in requisition. If the Commission tells the captain that they do not want his cargo, and that he may sell to individuals, he finds that he cannot export the proceeds unless he gives a security that he will import afterwards into the Republic the same amount in articles of the first necessity, such as provisions, &c. If the captain is so unfortunate as to have to treat with the agents of the Commission, he is certain to feel their imposition; they frequently refuse to confirm their own agreements. In short, after every sort of delay and vexation, should the captain claim an indemnity, he has to wade through double the difficulties heretofore stated, and perhaps after all to leave his business incomplete in the hands of an agent.

The fourth and last general complaint is of a delicate and important import. Mr. Fauchet, the French Minister, has made considerable purchases of provisions in America for account and in the name of the French Republic; one house has engaged to furnish 20,000 barrels of flour. Thirteen vessels loaded with these provisions have already arrived; and in vain have I demanded of the Commission of Commerce their answer respecting the payment of those contracts; except that, in the commencement, they assured me the Committee of Finance had ordered the

*The Mint.*

payment of three cargoes at Bordeaux; but to my surprise, two days after, I found that no report had been made by the commission of that committee.

You having judged, sir, the commerce of this country being immediately under the control of one branch of the Administration of its Government, that it was necessary to adopt some corresponding measures in order to protect the rights and interests of our citizens, and for that purpose having provisionally named me to the place of Consul, I have accepted it, as well to answer your views, as in the hope of rendering some good to both Republics.

Before I conclude, permit me to observe, that it is of indispensable importance to obtain some mode of having the claims of our citizens adjusted, for supplies furnished to the Colonies of the French Republic, and likewise the numerous claims in consequence of the late embargo at Bordeaux. I am authorized by many of the claimants to adjust them; and have many of the documents in hand, but wish for further instructions from you.

I would offer to your view a statement of the immense sums already paid by this Republic, and to be paid as indemnities for the extraordinary and useless delays of our vessels: but the Consuls and agents have not yet furnished me with the requisite documents; it is however a fact, that not a single vessel arrives from America, and departs, without having some such reclamation to make. I am persuaded that many millions are absorbed in this manner.

It is with regret, sir, that I find myself obliged—the duties of my station requiring it—to present to your view so many complaints of so serious a nature, as, in my opinion, calls for your earliest attention; but in doing this, I do not forget—and it will ever be my effort to cultivate as much as possible—a good understanding between the citizens of our country and those of France.

With respect, I remain, sir, your most humble servant,

FULWAR SKIPWITH.

The Hon. Col. MONROE.

[Here follows the names of some of the American vessels captured by the armed vessels of the French Republic, and carried into the various ports of the Republic.]

THE MINT.

DEPARTMENT OF STATE,  
December, 19, 1796.

SIR: By the direction of the President of the United States, I have the honor to enclose a report of the Director of the Mint, suggesting the expediency of some alterations in its establishment, to render it less expensive to the public, and more accommodating to depositors. The report is accompanied with statements of the

gold, silver, and copper coins, issued from the Mint from its commencement to the 24th of the last month, accounts of the gold and silver bullion which has been deposited, and an account of wastage, and a deficit in the silver coinage, which require an appropriation of two thousand eight hundred and twenty dollars and seventy-one cents, to reimburse depositors.

I am, with great respect, sir, your most obedient servant,

TIMOTHY PICKERING.

The SPEAKER of the House of  
Representatives of the United States.

MINT OF THE UNITED STATES,  
November 29, 1796.

SIR: I have the honor of enclosing, for the President of the United States, my annual report on the state of the Mint, with the abstracts referred to therein.

With sentiments of esteem and respect, I remain, sir, your most obedient and very humble servant,

ELIAS BOUDINOT.

To the SECRETARY OF STATE.

*The Director of the Mint of the United States respectfully reports to the President of the United States on the state of the Mint—*

That, during the experience of twelve months, he has turned his attention (as far as has been in his power) to the institution under his care. He has seen with regret an opinion generally prevailing, that the establishment is unnecessarily expensive, and less productive than was rationally expected by its advocates and friends.

The Director, finding some foundation for the charge, has endeavored to discover the cause, as nothing appears in the general nature of the institution to warrant the idea.

The issue of the inquiry is, that the extraordinary expenses attending the Mint are in a great measure owing to its original plan, and the principles on which it was established. Among others, the whole coinage, including the refinement of the precious metals, was directed by law to be executed at the public expense, the depositor being fully indemnified from all charges whatever. On this principle, not only the original cost of the works, and the salaries of the stated officers, fall on the public, but also the whole amount of the workmanship, with the alloy, wastage, and contingent losses.

The want of experimental knowledge in the business, at the first establishment of the Mint, prevented any tolerable precise estimate of the expenses necessarily attending the process; but soon after the commencement of the business it was found impracticable to proceed with propriety, unless an addition was made to the establishment by the appointment of a Melter and Refiner.

This important and necessary officer is not

*The Mint.*

known in foreign Mints, as the precious metals are there generally deposited of the proper standard, or above it; or they are purchased by the Mint, and become public property; there being professional refiners independent of the Mint, whose business it is to purify metals under standard, but there being no such artists in this city who follow the business, it became indispensably necessary to execute this service in the Mint.

This circumstance was not foreseen, or, if foreseen, was considered as included in the duties of the Assayer; but the necessity of so essential a check on that officer forbade this measure, had it been otherwise practicable. This added considerably to the annual expenses of the Mint.

Formerly the Director could not make any charge for this process against depositors; the whole expense, therefore, fell on the public. Thus on assaying one deposit of about 96,000 ounces of silver bullion, it turned out near 24,000 ounces under standard; to refine which it cost the United States upwards of £500, so that the depositor really gained that sum by bringing his bullion to the Mint. This operated very unequally among depositors. The citizen who brought bullion in this debased state to the Mint received as much coin for the standard silver therein as he whose bullion was previously refined equal to the standard, and ready for coining at a very trifling expense.

Again: the institution of the Mint, without any appropriation of capital, either to purchase the precious metals in bullion, anticipate payments due on deposits, or to coin for the public, has been another cause of very considerable expense. Depending upon depositors alone for the precious metals, it became necessary, for their encouragement and satisfaction, to coin every deposit as soon as possible after it came into the treasury of the Mint, to prevent its remaining unproductive to the depositor, by which means the clippings and grains were obliged to be melted and coined as they arose, often three or four times for one deposit.

Thus the melting, refining, and coining a deposit of 200 ounces of silver or 20 ounces of gold would cost the public nearly as much as 1,000 ounces of either; and a much greater proportional wastage; whereas, could the bullion be purchased for the public at the market price, and kept in the vaults till a large quantity might be coined at once, or a capital of about ten thousand dollars be allowed to the Mint, so as to anticipate the payments to depositors without being obliged to an immediate coinage on every occasion, a very great public saving would take place, not only as to the wastage, but in the expenditure of the materials and labor used in the process, and no injury done to the United States, but in the loan of the money for a short time. In a word, the difference would be much the same as between the wholesale merchant and the huckster.

This measure would also have a tendency to fix the price of bullion, and indemnify the public for some part of the expense of coinage. The only question that would arise is, whether on the

principle of political economy it would be a prudent measure on the part of Government? Suppose the expenses of coinage, including wastage, to be fixed at three per centum to the depositor, while in foreign countries it costs nothing. The consequence would be, that bullion in America might vary its price three per cent., according to the balance of trade; while bullion in those countries must be supposed invariable in its price, let the balance of trade stand as it will. Bullion, then, in those countries will always be at the highest price it can ever be at in America, since it is the price of coin; but in America it may be three per cent. lower. If, therefore, the United States, by coining free of all expense, contribute to keep the price of bullion higher than it is in countries where the coinage is paid for, a voluntary expense is created, of which there can be no just reason to complain.

A representation of some of these difficulties, with the dangerous situation of the Mint, for want of protecting laws to secure the instruments of coinage, the metals, and the coin, as also to prevent counterfeits, has been heretofore made by the officers of the Mint with but little other success than a resolution of Congress enabling the Director to retain the expense of refining the precious metals under standard; but the wastage, alloy, and coinage, are still dead charges on the public Treasury.

While, therefore, this policy, on the whole, is considered as beneficial to the United States, the complaints against the Mint for its heavy expenses to the public are without solid foundation, as it is impossible to carry on an institution of this nature under these circumstances, and which requires from fifteen to twenty workmen and laborers to attend it, without great expense. Add to this, that the alloy of silver and copper, with the loss by necessary wastage, must unavoidably rise to a considerable annual amount.

But notwithstanding these and other difficulties attending an infant institution, especially the late great advance in the prices of materials and labor, the aggregate expenses of the Mint are greatly reduced, either from the superior knowledge of the persons employed, gained by experience, or from new arrangements found to be more advantageous than those made on the spur of the occasion. This will appear more evident by a review of the progressive reduction of the contingent expenses in the quarterly accounts rendered into the Treasury Department, and it is hoped there will be a further progress in this desirable economy.

When the present Director entered upon the administration of the Mint, there was no appropriation of money for the purchase of copper for the coinage of cents. This he clearly foresaw would prove a source of further expense, by often leaving the workmen without employ. He made application to Congress, by their committee, on the subject; but all that was obtained was thirteen thousand dollars, which was coined into cents, and returned into the public Treasury, or remitted for the purchase of copper, before the rising of Congress the last Spring. No further

*Receipts and Expenditures.*

appropriation was made, till it was too late to procure the necessary importation of copper for the Summer's coinage; whereby much time has been lost, and some considerable expense of workmen has been added to the Summer's account.

It is now hoped, from the present arrangement, no such inconvenience will arise hereafter, but a continual and ample supply of copper coinage be produced adequate to the public wants.

As the laws relative to the Mint now stand, the officers are obliged to pay to each depositor the coins arising from his deposit, in strict order, and to reserve three pieces of coin from each mass; yet no appropriation has been made to replace the reserves, or to make good the wastage; it is, therefore, impossible for the officers of the Mint to comply with the law; and the depositors complain of being kept out of their property till provision is made by Congress for their relief.

By a number of new half johannes brought to the Mint for assaying, said to have been coined in the United States, it appears that a coinage for that purpose is carried on in some State in the Union. Some of these are found to be under standard in their quality, and between two and three penny-weights less than their true weight. These are facts which the Director thinks it his duty to communicate to the President.

From the various experiments made since the establishment of the Mint, it is found unnecessary to make use of silver in alloying of gold, unless it is for the purpose of beautifying the coin; in which case it should be composed at the proportion of one-third silver to two-thirds copper.

By the following abstract of the bullion and coin received and issued from the Mint, since its first establishment, may be seen, as well the nature of the deposits made, as the coins returned to the Treasury, and the dates of the receipts and issues to this day, with the amount of the copper coinage.

From this it appears that there is due for wastage, during that period, the quantity of fifteen hundred and ninety-nine ounces sixteen penny-weights and fifteen grains of silver, equal to eighteen hundred and forty-five dollars ninety-five cents and five mills; besides a deficit of eight hundred and forty-four ounces seventeen penny-weights and five grains of silver, equal to nine hundred and seventy-four dollars seventy-five cents and five mills—making, in the whole, two thousand eight hundred and twenty dollars and seventy-one cents; for which an appropriation ought to be made by law, to satisfy a deficient deposit.

The Director thinks it necessary to mention, in exculpation of the former officers of the Mint, that by a report made on this subject, it appears that there is yet a considerable quantity of old pots and test bottoms, from which it is expected that nearly the amount of the deficient silver, as stated above, will be extracted.

ELIAS BOUDINOT.

MINT OF THE UNITED STATES,  
November 29, 1796.

## RECEIPTS AND EXPENDITURES.

*Account of receipts and expenditures of the United States, commencing on the 1st day of October, 1795, and ending on the 30th September, 1796.*

Dr.

For amount of expenditures during said period under the following heads, viz :

Civil Department	-	-	\$ 438,217 67
Military Department	-	-	1,263,275 69
Diplomatic Department	-	-	69,388 89
Miscellaneous expenses	-	-	29,445 03
Contingent charges of Government	-	-	13,518 97
Support and erection of light-houses	-	-	39,927 81
Interest on Domestic Loans	-	-	324,500 00
Trade with the Indians	-	-	50,000 00
Naval Department	-	-	310,906 07
Fortifications of ports and harbors	-	-	40,788 70
Military Pensions	-	-	97,367 45
Annuities and grants	-	-	2,652 21
Interest on Domestic Debt, &c.	-	-	2,808,200 24
Mint Establishment	-	-	46,330 19
Dutch debt	-	-	991,649 47
French debt	-	-	181,500 00
Debt due to foreign officers	-	-	19,149 98
Payment for unclaimed merchandise	-	-	50 78
Protection of American seamen	-	-	5,000 00

*Temporary Domestic Loans, viz :*

1796, August 18. On account of the loan of \$523,500, obtained of the Bank of the United States the 25th May, 1792	-	-	120,000 00
Appropriation for carrying into effect the Treaty between the United States and the King of Spain	-	-	4,030 00
Appropriation for carrying into effect the Treaty between the United States and the King of Great Britain	-	-	7,555 54
Appropriation for carrying into effect the Treaty between the United States and certain hostile Indian tribes northwest of the river Ohio	-	-	9,500 00
Balance in the Treasurer's hands on the 30th September, 1796, 1,045,212 13	-	-	
From which deduct warrants remaining unpaid on that day, which are charged as expenditures in this statement	-	-	6,918 62

The balance subject to warrants on the 1st October, 1796, therefore was	-	-	1,038,293 51
	-	-	<u>7,911,248 20</u>

Cr.

By balance in the hands of the Treasurer, on the 30th September, 1795, 447,271 91

Deduct warrants drawn on him previous to the 1st of October, 1795, which remained unpaid that day - 77,445 62

Balance subject to warrant on the 1st October, 1795	-	-	\$369,826 29
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### Naval Equipments.

Moneys received into the Treasury  
as follow :

For duties on merchandise and tonnage in the quarter ending 31st Decem- ber, 1795	- 1,354,915 00
31st March, 1796	- 1,177,882 13
30th June	- 1,680,128 25
30th September	- 1,923,011 26

6,135,936 64

For duties on spirits distilled in the United States, and on stills; on sales at auction; on licences for selling wines and spirituous liquors by retail; on carriages for the conveyance of persons; on refined sugar, and on snuff and snuff mills, in the quarter ending 31st December, 1795 - 127,329 18  
31st March, 1796 - 119,458 75  
30th June, 1796 - 97,151 95  
30th Sept., 1796 - 125,729 43

469,579 31

For postage of letters in the quarter	
ending 31st Dec., 1795	— — — — —
30th March, 1796	- 18,760 27
30th June, 1796	- 12,149 57
30th Sept., 1796	- 28,000 00

58,909 84

<b>For dividends on capital stock in the</b>		
<b>Bank of the United States, due the</b>		
31st Dec., 1795	-	80,000
30th June, 1796	-	80,000

160,000 00

For fees on letters patent, in the quarter ending the 31st Dec., 1795	90
31st March, 1796	- 360
30th June, 1796	- 330
30th Sept., 1796	- 480

1,260 00

### Domestic Loans.

In the quarter ending the 31st December, 1795, on account of the loan of of \$500,000 per act of 3d March, 1795 - - - 500,000

In the quarter ending the 30th September, 1796, on ac- count of the loan of \$320,- 000, per act of 31st of May	-	-	-	120,000
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620,000 00

*Balances due the United States under  
the late Government.*

In the quarter ending 31st December, 1795.—From James Lovell, receiver of Continental taxes for the State of Massachusetts: balance due by him - - - 1,766 04

In the quarter ending 31st March, 1796.—From Edward Carrington, late Deputy Quartermaster General, for public property sold - - - 375 00

In the quarter ending 30th June, 1796.—From Rufus King, on account of

balance due by John Alsop and others 2,500 49

Edward Carrington, late Deputy Quartermaster General, for public property sold	- 629 34	<u>3,500 49</u>
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In the quarter ending 30th September, 1796.—From the trustees in behalf of the creditors of Thomas Huggins, deceased, late Commissary of Purchases in the State of Maryland 1,178 25

6,819 78

### Repayments.

In the quarter ending the 30th June, 1796.—From Samuel A. Otis, balance of moneys advanced him for paying the compensations due to the Senators of the United States 4,088 55

In the quarter ending 30th September, 1796.—From John Jay, late Envoy to the Court of Great Britain, balance due by him	496 09
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4,584 64

*Cents and Half cents coined at the Mint.*

In the quarter ending 31st March,	
1796. -	- 3,058 00
30th June -	- 2,923 70
30th September	- 300 00

6,281 70

*Funds arising from six per cent.  
stock loaned and purchased from  
the Bank of the United States.*

In the quarter ending 31st December,		
1795	-	- 51,300
30th June, 1796	-	- 26,750

78,050 00

7,911,248 20

JOSEPH NOURSE, *Register.*

TREASURY DEPARTMENT,  
Register's Office, 29th Nov., 1796.

## NAVAL EQUIPMENTS.

The following is a statement received from the Secretary of War, of the present situation and appropriations necessary to complete and man the three frigates now building; with the report of the committee thereon.

WAR OFFICE, *January 11, 1797.*

SIR: In compliance with your letter of the 21st ultimo, I have the honor to submit the enclosed statements, which exhibit as particular a view of the material objects of your inquiries, as could be obtained, without occa-



*Naval Equipments.*

sioning a delay that might have counteracted your intentions.

The measures that have been taken to prepare the rigging and sails, and to procure the necessary stores, and the advances made towards the final equipment of the frigates, render it probable that they may be got ready for sea in about two months after being launched.

While on this subject, permit me to observe, that, if Congress perceive advantages in the extension of their marine, or think it expedient that early precautions should be taken to secure to the United States a lasting fund of live-oak for future use, it will be proper that authority should be given for the purpose, as well as to purchase a site for a navy-yard.

The probability is, that an article so important to marine nations as live-oak will be sought after with much avidity, and that the land which is clothed with it may pass into hands that may make its attainment hereafter more expensive, if not impracticable.

But, whether it is right that the United States should be the purchaser of such land, is a question which, no doubt, you have examined.

I am, sir, with great respect, your obedient servant,  
JAMES MCHENRY.

Hon. Mr. PARKER, *Chairman of the Committee for inquiring into the state of naval equipments, &c., &c.*

*Statement of the progress made in building a Frigate at Philadelphia, to carry forty-four guns.*

The hull is all planked inside and out, and all the principal decks are laid and caulked, excepting a part of the gun-deck; the upper-deck beams are in and a part of them kneed; about half of the bottom is dubbed off, and a considerable part caulked; the braces and pintles for the rother are all cast; the knee of the head, together with the figure, are nearly ready. All other parts of the hull is in such forwardness, that it is expected she may be launched by the beginning of April next, provided the winter does not prove severe. The rigging is all made and nearly fitted; the yarns for the cables are spun; the anchors and iron ballast on hand; and the blocks, deadeyes, water-casks, boats, lanterns, and all the tin work, are provided. The other materials are in part procured, and the work in general progresses rapidly towards completion.

*Statement of the progress made in building a Frigate at Boston, to carry forty-four guns*

The whole of the frame is raised, and is ready for planking; the wales are prepared, and it is expected will be on and fastened this month; the keelsons are in their places, and bolted off. The masts are now in hand, and the boats are building; all the deadeyes for lower and topmast shrouds are made and strapped. The knees for all the decks are procured, as well as the beams, carling, ledges, &c. Iron ballast sufficient is in store, and the necessary materials for completing the hull are procured and received.

The hemp for the cables, rigging, &c., and blocks, are in the hands of the respective tradesmen, manufacturing, and if the winter should prove favorable, there is no doubt but this frigate may be launched in July next.

*Statement of the progress made in building a Frigate at Baltimore, to carry thirty-six guns.*

The whole of the frame is raised; the wales, black strakes, flush, quarter, and fore drifts, on and dressed off.

The ceiling, clamps for gun, lower and orlop decks, are all in and dubbed off. The beams are prepared and ready to be put into their respective stations. The bottom is now planking, and the knees are getting ready for the decks; other parts of the hull are progressing as fast as the workmen can be employed to advantage; and, from the present appearances, this ship may be launched in May next. The lower topmast and top-gallant shrouds, with all their respective stays, are fitted and ready to go over the mast-heads. The other rigging is also in great forwardness.

The boats are all built, water casks mostly made, together with the blocks, deadeyes, hearts, &c. The cannon for the gun-deck are all in the navy-yard, trimmed, and are ready for mounting on the carriages, which are made.

*Estimate of the sums necessary to complete and equip the frigates United States and Constitution, of forty-four guns, and Constellation, of thirty-six guns.*

To complete the frigate building at Philadelphia	\$55,950 00
To complete the frigate building at Boston	96,571 71
To complete the frigate building at Baltimore	47,375 00
	199,896 71

Salaries of two persons to have charge of the timber in the navy-yards at New York and Norfolk	1,000 00
Rent of navy-yards at New York and Portsmouth, (New Hampshire)	1,200 00
	202,096 71
Balance of appropriation unexpended	24,133 78

To be provided for, to complete and equip the above frigates, &c.	\$177,962 93
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*An Estimate of the expense for pay and subsistence of the Captains and Crews of two forty-four gun, and one thirty-six gun frigates.*

Pay of the officers, seamen, and marines of two frigates, of forty-four guns each.

	Per mo.	12 mo.
2 Captains	\$75	\$1,800
3 Lieutenants	40	3,840
2 Lieutenants of Marines	26	624
2 Chaplains	40	960
2 Sailing Masters	40	960
2 Surgeons	50	1,200
4 Surgeon's Mates	30	1,440
2 Pursers	40	960
2 Boatswains	18	432
2 Gunners	18	432
2 Sail-makers	18	432
2 Carpenters	18	432
4 Boatswain's Mates	13	624
4 Gunner's Mates	13	624
2 Sail-maker's Mates	13	312
16 Midshipmen	13	2,496
4 Master's Mates	13	624
2 Captain's Clerks	13	312

## Naval Equipments.

	Per mo.	12 mo.
2 Cockswains -	\$13	\$312
2 Yeomen of the Gun Rooms -	13	312
22 Quarter Gunners -	13	3,432
4 Carpenter's Mates -	13	624
2 Armors -	13	312
2 Stewards -	13	312
2 Coopers -	13	312
2 Master-at-Arms -	13	312
2 Cooks -	13	312
300 Seamen -	11	39,600
206 Midshipmen and ordinary Seamen -	9	22,248
2 Sergeants -	10	240
2 Corporals -	10	240
2 Drummers -	9	216
2 Fifers -	9	216
100 Marines -	9	10,800
		<u>\$98,304</u>

4,096 dollars per month for each  
frigate of forty-four guns.

Pay of the officers, seamen, and marines of one  
frigate of thirty-six guns.

	Per mo.	12 mo.
1 Captain -	\$75	\$900
3 Lieutenants -	40	1,440
1 Lieutenant of Marines -	26	312
1 Surgeon -	50	600
1 Surgeon's Mate -	30	360
1 Sailing Master -	40	480
1 Purser -	40	480
1 Boatswain -	18	216
1 Gunner -	18	216
1 Sail-maker -	18	216
1 Carpenter -	18	216
8 Midshipmen -	13	1,248
2 Master's Mates -	13	312
1 Captain's Clerk -	13	156
2 Boatswain's Mates -	13	312
1 Cockswain -	13	156
1 Sail-maker's Mate -	13	156
2 Gunner's Mates -	13	312
1 Yeoman of the Gun Room -	13	156
9 Quarter Gunners -	13	1,404
2 Carpenter's Mates -	13	312
1 Armorer -	13	156
1 Steward -	13	156
1 Cooper -	13	156
1 Master-at-Arms -	13	156
1 Cook -	13	156
130 Able Seamen and Midshipmen -	11	17,160
90 Ordinary Seamen -	9	9,720
1 Sergeant -	10	120
2 Corporals -	10	240
1 Drummer -	9	108

	Per mo.	12 mo.
1 Fifer -	\$9	\$108
40 Marines -	9	360
		<u>\$42,516</u>

3,513 dollars per month.

## SUBSISTENCE.

	Rations per day.	12 mo.
3 Captains -	6	6,570
11 Lieutenants -	3	12,045
3 Lieutenants of Marines -	2	2,190
2 Chaplains -	2	1,460
3 Surgeons -	2	2,190
5 Surgeon's Mates -	2	3,650
3 Sailing Masters -	2	2,190
3 Pursers -	2	2,190
3 Boatswains -	2	2,190
6 Boatswain's Mates -	1	2,190
3 Gunners -	2	2,190
6 Gunner's Mates -	1	2,190
3 Sail-makers -	2	2,190
3 Sail-maker's Mates -	1	1,095
3 Carpenters -	2	2,190
6 Carpenter's Mates -	1	2,190
24 Midshipmen -	1	8,760
6 Master's Mates -	1	2,190
3 Captain's Clerks -	1	1,095
3 Cockswains -	1	1,095
3 Yeomen of the Gun Rooms -	1	1,095
31 Quarter-gunners -	1	11,815
3 Armors -	1	1,095
3 Stewards -	1	1,095
3 Coopers -	1	1,095
3 Masters-at-Arms -	1	1,095
3 Cooks -	1	1,095
726 Able Seamen, Midshipmen, and ordinary Seamen -	1	264,990
3 Sergeants -	1	1,095
4 Corporals -	1	1,460
3 Drummers -	1	1,095
3 Fifers -	1	1,095
140 Marines -	1	51,100

400,770 rations, at 20 cents per ration, is 80,154

\$220,974

WAR OFFICE, December 29, 1796.

## Names of the Officers appointed.

Captain John Barry, to command the frigate United States, building at Philadelphia.

Captain Samuel Nicholson, to command the frigate Constitution, building at Boston.

Captain Thomas Truxtun, to command the frigate Constellation, building at Baltimore.

## Naval Equipments.

Materials remaining on hand in the Navy Yards at New York, Norfolk, and Portsmouth, (New Hampshire,) which have been provided, and deposited there for the frigates whose building has been suspended by an act of Congress.

Names of places where deposited.	No. of pieces of live oak timber provided for the frames.	No. of feet of white-oak timber in logs.	No. of feet of white-oak timber, of various descriptions.	No. of feet of white oak plank for the bottom, ceiling, and topsides.	No. of feet of white-oak plank for other uses.	No. of feet of carlings and ledges.	No. of feet of Georgia pine planks for decks.	No. of feet of yellow-pine plank, for various uses.	No. of pounds of copper for sheathing, &c.	Weight of iron kentledge for ballast.	Weight of 24-pound shot.	Number of anchors.	Number of pounds of iron.	Masts and spars of various sizes.	Number of white oak-knees.	No. of pieces of bunting for colors.	Caboose, with a complete set of cooking utensils, &c.
New York	314	105,864	24,444	159,292	42,371	18,130	85,930	35,679	55,379	Tons. 140	Pounds. 57,561	2	3,562	17	-	-	1
Norfolk	402	48,052	57,948	17,877	-	†8,064	-	28,977	53,831	-	-	-	33,524 \$120	1	-	-	1
Portsmouth	541	*34,800	34,560	105,989	21,719	6,765	38,250	-	-	-	-	†1	9,339	†-	200	99	1

N. B.—Considerable quantities of live-oak timber, and other materials, have been selected out of the above Navy Yards, for the use of the frigates under construction.

\* Maple.

† Timbers.

‡ A large anchor of 44 cwt. 2 qrs. 14 lbs.

§ Barr.

|| All provided, but not delivered.

¶ One complete set.

*Opposition to the Excise Law.*

*Materials that have been sold agreeably to act of Congress; to which are added the prices and amount.*

2,503 feet 9 inches 3-inch white-oak plank, at \$90 00	-	-	-	\$225 33 1-4	
3,749 feet 10 inches 3 1-2-inch white-oak plank, at \$105 00	-	-	-	393 72	
2,274 feet 4 inches 5-inch white-oak plank, at \$120 00	-	-	-	272 93	
24 feet 2 inches 4 1-2-inch white-oak plank, at \$135 00	-	-	-	3 26 1-2	\$895 24 1-6
806 feet 2 inches 3-inch ceiling white-oak plank, at \$70 00	-	-	-	56 43 1-3	
852 feet 9 inches 3 1-2-inch ceiling white-oak plank, at \$81 66 1-2	-	-	-	69 64	
1,303 feet 3 inches 4-inch ceiling white-oak plank, at \$93 33 1-2	-	-	-	121 64 1-3	247 71 1-6
2,404 feet 3-inch pitch pine plank, at \$90 00	-	-	-	216 36	
161 tons long white-oak timber, (8 feet,) \$10 00 per ton	-	-	-	1,612 00	
60 tons short white-oak timber, (23 feet,) at \$6 00 per ton	-	-	-	363 45	
1,547 1-4 inches white-oak-knees, at 40 cents	-	-	-	618 88	
10 tons pine timber, (27 feet,) at \$3 50	-	-	-	37 36	
					2,848 00 5-0
88 1-2 inches spruce spars, at 8 cents	-	-	-		7 8-0
1,200 locust trenails, of 36 inches, at \$22 50 per 1,000	-	-	-	26 25	
3,000 locust trenails, of 24 inches, at \$15 00 per 1,000	-	-	-	45 00	
3,000 locust trenails, of 20 inches, at \$12 50 per 1,000	-	-	-	37 50	
8,000 locust trenails, of 18 inches, at \$11 25 per 1,000	-	-	-	90 06	
1,630 locust trenails, of 16 inches, at \$10 00 per 1,000	-	-	-	16 30	
318 white-oak trenails, at 60 cents per 100	-	-	-	1 90 1-8	
					215 95 1-8
					4,214 00 0-5

### OPPOSITION TO THE EXCISE LAW IN PENNSYLVANIA.

COMMUNICATED TO CONGRESS BY THE PRESIDENT OF  
THE UNITED STATES, NOVEMBER 20, 1794.

And referred to in his speech to the two Houses on the  
19th, of which the following is an extract:

*Fellow-citizens of the Senate and  
of the House of Representatives:*

When we call to mind the gracious indulgence of Heaven, by which the American people became a nation; when we survey the general prosperity of our country, and look forward to the riches, power, and happiness, to which it seems destined; with the deepest regret do I announce to you that, during your recess, some of the citizens of the United States have been found capable of an insurrection. It is due, however, to the character of our Government, and to its stability, which cannot be shaken by the enemies of order, freely to unfold the course of this event.

During the session of the year one thousand seven hundred and ninety, it was expedient to exercise the Legislative power, granted by the Constitution of the United States "to lay and collect excises." In a majority of the States, scarcely an objection was heard to this mode of taxation. In some, indeed, alarms were at first conceived, until they were banished by reason and patriotism. In the four western counties of Pennsylvania, a prejudice, fostered and imbibed by the artifice of men, who labored for an ascendancy over the will of others, by the guidance of their passions, produced symptoms of riot and violence. It is well known that Congress did not hesitate

to examine the complaints which were presented; and to relieve them, as far as justice dictated, or general convenience would permit. But the impression which this moderation made on the discontented did not correspond with what it deserved. The arts of delusion were no longer confined to the efforts of designing individuals. The very forbearance to press prosecutions was misinterpreted into a fear of urging the execution of the laws, and associations of men began to denounce threats against the officers employed. From a belief that, by a more formal concert, their operation might be defeated, certain self-created societies assumed the tone of condemnation. Hence, while the greater part of Pennsylvania itself were conforming themselves to the acts of excise, a few counties were resolved to frustrate them. It was now perceived, that every expectation from the tenderness which had been hitherto pursued was unavailing, and that further delay could only create an opinion of impotency or irresolution in the Government. Legal process was therefore delivered to the marshal against the rioters and delinquent distillers.

No sooner was he understood to be engaged in this duty, than the vengeance of armed men was aimed at his person, and the person and property of the inspector of the revenue. They fired upon the marshal, arrested him, and detained him, for some time, as prisoner. He was obliged, by the jeopardy of his life, to renounce the service of other process, on the west side of the Alleghany mountain; and a deputation was afterwards sent to him to demand a surrender of that which he had served. A numerous body repeatedly attacked the house of the inspector, seized his papers

*Opposition to the Excise Law.*

of office, and finally destroyed by fire his buildings and whatsoever they contained. Both of these officers, from a just regard to their safety, fled to the seat of Government—it being avowed, that the motives to such outrages were to compel the resignation of the inspectors; to withstand by force of arms the authority of the United States; and thereby to extort a repeal of the laws of excise, and an alteration in the conduct of Government.

Upon the testimony of these facts, an Associate Justice of the Supreme Court of the United States notified to me that “in the counties of Washington and Allegany, in Pennsylvania, laws of the United States were opposed, and the execution thereof obstructed, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshal of that district.” On this call, momentous in the extreme, I sought and weighed what might best subdue the crisis. On the one hand, the judiciary was pronounced to be stripped of its capacity to enforce the laws; crimes, which reached the very existence of social order, were perpetrated without control; the friends of Government were insulted, abused, and overawed into silence, or an apparent acquiescence; and, to yield to the treasonable fury of so small a portion of the United States, would be to violate the fundamental principle of our Constitution, which enjoins that the will of the majority shall prevail. On the other, to array citizen against citizen, to publish the dishonor of such excesses, to encounter the expense, and other embarrassments, of so distant an expedition, were steps too delicate, too closely interwoven with many affecting considerations, to be lightly adopted. I postponed, therefore, the summoning of the militia immediately into the field; but I required them to be held in readiness, that, if my anxious endeavors to reclaim the deluded, and to convince the malignant of their danger, should be fruitless, military force might be prepared to act before the season should be too far advanced.

My proclamation of the 7th of August last was accordingly issued, and accompanied by the appointment of commissioners, who were charged to repair to the scene of insurrection. They were authorized to confer with any bodies of men or individuals. They were instructed to be candid and explicit in stating the sensations which had been excited in the Executive, and his earnest wish to avoid a resort to coercion; to represent, however, that, without submission, coercion must be the resort; but to invite them, at the same time, to return to the demeanor of faithful citizens, by such accommodations as lay within the sphere of Executive power. Pardon, too, was tendered to them by the Government of the United States, and that of Pennsylvania, upon no other condition than a satisfactory assurance of obedience to the laws.

Although the report of the commissioners marks their firmness and abilities, and must unite all virtuous men, by showing that the means of conciliation have been exhausted, all of those

who had committed or abetted the tumults did not subscribe the mild form which was proposed as the atonement; and the indications of a peaceable temper were neither sufficiently general nor conclusive to recommend or warrant the further suspension of the march of the militia.

Thus, the painful alternative could not be discarded. I ordered the militia to march, after once more admonishing the insurgents, in my proclamation of the 25th of September last.

It was a task too difficult to ascertain, with precision, the lowest degree of force competent to the quelling of the insurrection. From a respect, indeed, to economy, and the ease of my fellow citizens belonging to the militia, it would have gratified me to accomplish such an estimate. My very reluctance to ascribe too much importance to the opposition, had its extent been accurately seen, would have been a decided inducement to the smallest efficient numbers. In this uncertainty, therefore, I put in motion fifteen thousand men, as being an army which, according to all human calculation, would be prompt and adequate in every view, and might, perhaps, by rendering resistance desperate, prevent the effusion of blood. Quotas had been assigned to the States of New Jersey, Pennsylvania, Maryland, and Virginia; the Governor of Pennsylvania having declared, on this occasion, an opinion which justified a requisition to the other States.

As commander-in-chief of the militia, when called into the actual service of the United States, I have visited the places of general rendezvous, to obtain more exact information, and to direct a plan for ulterior movements. Had there been room for persuasion that the laws were secure from obstruction; that the civil magistrate was able to bring to justice such of the most culpable as have not embraced the proffered terms of amnesty, and may be deemed fit objects of example; that the friends to peace and good government were not in need of that aid and countenance which they ought always to receive, and, I trust, ever will receive, against the vicious and turbulent; I should have caught with avidity the opportunity of restoring the militia to their families and home. But, succeeding intelligence has tended to manifest the necessity of what has been done; it being now confessed by those who were not inclined to exaggerate the ill conduct of the insurgents, that their malevolence was not pointed merely to a particular law, but that a spirit, inimical to all order, has actuated many of the offenders. If the state of things had afforded reason for the continuance of my presence with the army, it would not have been withholden. But every appearance assuring such an issue as will redound to the reputation and strength of the United States, I have judged it most proper to resume my duties at the seat of Government, leaving the chief command with the Governor of Virginia.

Still, however, as it is probable that, in a commotion like the present, whatsoever may be the pretence, the purposes of mischiefs and revenge may not be laid aside, the stationing of a small

*Opposition to the Excise Law.*

force, for a certain period, in the four western counties of Pennsylvania, will be indispensable, whether we contemplate the situation of those who are connected with the execution of the laws, or of others, who may have exposed themselves by an honorable attachment to them. Thirty days from the commencement of this session being the legal limitation of the employment of the militia, Congress cannot be too early occupied with this subject.

Among the discussions which may arise from this aspect of our affairs, and from the documents which will be submitted to Congress, it will not escape their observation, that not only the inspector of the revenue, but other officers of the United States, in Pennsylvania, have, from their fidelity in the discharge of their functions, sustained material injuries to their property. The obligation and policy of indemnifying them are strong and obvious. It may also merit attention, whether policy will not enlarge this provision to the retribution of other citizens, who, though not under the ties of office, may have suffered damage by their generous exertions for upholding the Constitution and the laws. The amount, even if all the injured were included, would not be great; and, on future emergencies, the Government would be amply repaid by the influence of an example, that he, who incurs a loss in its defence, shall find a recompense in its liberality.

While there is cause to lament that occurrences of this nature should have disgraced the name or interrupted the tranquillity of any part of our community, or should have diverted, to a new application, any portion of the public resources, there are not wanting real and substantial consolations for the misfortune. It has demonstrated that our prosperity rests on solid foundations, by furnishing an additional proof that my fellow citizens understand the true principles of Government and liberty; that they feel their inseparable union; that, notwithstanding all the devices which have been used to sway them from their interest and duty, they are now as ready to maintain the authority of the laws against licentious invasions, as they were to defend their rights against usurpation. It has been a spectacle, displaying to the highest advantage the value of Republican Government, to behold the most and the least wealthy of our citizens standing in the same ranks as private soldiers, pre-eminently distinguished by being the army of the Constitution; undeterred by a march of three hundred miles over rugged mountains, by the approach of an inclement season, or by any other discouragement. Nor ought I to omit to acknowledge the efficacious and patriotic co-operation which I have experienced from the Chief Magistrates of the States to which my requisitions have been addressed.

To every description, indeed, of citizens let praise be given. But let them persevere in their affectionate vigilance over that precious depositary of American happiness, the Constitution of the United States. Let them cherish it, too, for the sake of those who, from every clime, are daily

seeking a dwelling in our land. And when, in the calm moments of reflection, they shall have retraced the origin and progress of the insurrection, let them determine whether it has not been fomented by combinations of men, who, careless of consequences, and disregarding the unerring truth, that those who rouse cannot always appease a civil convulsion, have disseminated, from an ignorance or perversion of facts, suspicions, jealousies, and accusations, of the whole Government.

PHILADELPHIA, August 4, 1794.

SIR: From evidence which has been laid before me, I hereby notify to you that, in the counties of Washington and Allegany, in Pennsylvania, laws of the United States are opposed, and the execution thereof obstructed, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshal of that district.

I have the honor to be, with the highest consideration and respect, sir, your most obedient and humble servant,

JAMES WILSON.

The PRESIDENT OF THE UNITED STATES.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA,

A PROCLAMATION.

Whereas combinations to defeat the execution of the laws laying duties upon spirits distilled within the United States, and upon stills, have, from the time of the commencement of those laws, existed in some of the western parts of Pennsylvania; And whereas the said combinations, proceeding in a manner subversive equally of the just authority of Government, and of the rights of individuals, have hitherto effected their dangerous and criminal purpose, by the influence of certain irregular meetings, whose proceedings have tended to encourage and uphold the spirit of opposition, by misrepresentations of the laws, calculated to render them odious, by endeavors to deter those who might be so disposed from accepting offices under them, through fear of public resentment, and of injury to person and property, and to compel those who had accepted such offices, by actual violence to surrender or forbear the execution of them; by circulating vindictive menaces against all those who should otherwise directly or indirectly aid in the execution of the said laws, or who, yielding to the dictates of conscience and to a sense of obligation, should themselves comply therewith; by actually injuring and destroying the property of persons who were understood to have so complied; by inflicting cruel and humiliating punishments upon private citizens, for no other cause than that of appearing to be the friends of the laws; by intercepting the public officers on the highways, abusing, assaulting, and otherwise ill-treating them; by going to their houses in the night, gaining admittance by force, taking away their papers, and committing other outrages; employing, for these unwarrantable purposes, the agency of armed banditti, disguised



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in such manner as, for the most part, to escape discovery: And whereas the endeavors of the Legislature to obviate objections to the said laws, by lowering the duties, and by other alterations conducive to the convenience of those whom they immediately affect, (though they have given satisfaction in other quarters,) and the endeavors of the Executive officers to conciliate a compliance with the laws, by explanations, by forbearance, and even by particular accommodations, founded on the suggestion of local considerations, have been disappointed of their effect by the machinations of persons, whose industry to excite resistance has increased with every appearance of a disposition among the people to relax in their opposition, and to acquiesce in the laws, inasmuch that many persons in the said western parts of Pennsylvania have at length been hardy enough to perpetrate acts which I am advised amount to treason, being overt acts of levying war against the United States; the said persons having, on the 16th and 17th July last past, proceeded in arms (on the second day amounting to several hundreds) to the house of John Neville, inspector of the revenue for the fourth survey of the district of Pennsylvania, having repeatedly attacked the said house, with the persons therein, wounding some of them; having seized David Lenox, marshal of the district of Pennsylvania, who, previous thereto, had been fired upon while in the execution of his duty by a party of armed men, detaining him for some time prisoner, till, for the preservation of his life, and the obtaining of his liberty, he found it necessary to enter into stipulations to forbear the execution of certain official duties touching processes issuing out of a court of the United States; and having finally obliged the said inspector of the said revenue, and the said marshal, from considerations of personal safety, to fly from that part of the country, in order, by a circuitous route, to proceed to the Seat of Government; avowing, as the motives of these outrageous proceedings, an intention to prevent, by force of arms, the execution of the said laws; to oblige the said inspector of the revenue to renounce his said office; to withstand, by open violence, the lawful authority of the Government of the United States; and to compel thereby an alteration in the measures of the Legislature, and a repeal of the laws aforesaid: And whereas by a law of the United States, entitled "An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions," it is enacted, "that, whenever the laws of the United States shall be opposed, or the execution thereof obstructed, in any State, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by that act, the same being notified by an associate justice or the district judge, it shall be lawful for the President of the United States to call forth the militia of such State to suppress such combinations, and to cause the laws to be duly executed. And if the militia of a State where such combinations may happen shall refuse, or be insufficient

to suppress the same, it shall be lawful for the President, if the Legislature of the United States shall not be in session, to call forth and employ such numbers of the militia of any other State or States most convenient thereto as may be necessary; and the use of the militia, so to be called forth, may be continued, if necessary, until the expiration of thirty days after the commencement of the ensuing session: *Provided, always, That, whenever it may be necessary, in the judgment of the President, to use the military force hereby directed to be called forth, the President shall forthwith, and previous thereto, by proclamation, command such insurgents to disperse and retire peaceably to their respective abodes within a limited time.*" And whereas James Wilson, an associate justice, on the 4th instant, by writing under his hand, did, from evidence which had been laid before him, notify to me that, "in the counties of Washington and Allegany, in Pennsylvania, laws of the United States are opposed, and the execution thereof obstructed, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshal of that district." And whereas it is, in my judgment, necessary, under the circumstances of the case, to take measures for calling forth the militia in order to suppress the combinations aforesaid, and to cause the laws to be duly executed, and I have accordingly determined so to do, feeling the deepest regret for the occasion, but withal the most solemn conviction that the essential interests of the Union demand it; that the very existence of Government and the fundamental principles of social order are materially involved in the issue, and that the patriotism and firmness of all good citizens are seriously called upon, as occasions may require, to aid in the effectual suppression of so fatal a spirit:

Wherefore, and in pursuance of the proviso above recited, I, George Washington, President of the United States, do hereby command all persons, being insurgents as aforesaid, and all others whom it may concern, on or before the first day of September next, to disperse and retire peaceably to their respective abodes. And I do moreover warn all persons whomsoever against aiding, abetting, or comforting the perpetrators of the aforesaid treasonable acts; and do require all officers and other citizens, according to their respective duties, and the laws of the land, to exert their utmost endeavors to prevent and suppress such dangerous proceedings.

In testimony whereof, I have caused the seal of the United States of America to be affixed to these presents, and signed the same [L. s.] with my hand. Done at the city of Philadelphia, the seventh day of August, one thousand seven hundred and ninety-four, and of the independence of the United States of America the nineteenth.

GEO. WASHINGTON.

By the President:

EDMUND RANDOLPH.

*Opposition to the Excise Law.*

AUGUST 5, 1794.

GENTLEMEN: The recent events in the neighborhood of Pittsburg have called the attention of the President to the formation of some plan by which the insurrection may be suppressed.

The intelligence which has been transmitted, having been laid before Judge Wilson, he has granted a certificate, declaring that the opposition to the laws of the United States, in the counties of Washington and Allegany, cannot be suppressed by the ordinary course of judicial proceedings, or the power of the marshal. (A copy of that certificate is enclosed No. 1.)

You, or any one or more of you, are, therefore, authorized and appointed forthwith to proceed to the scene of the insurrection, and to confer with any bodies of men or individuals with whom you shall think proper to confer, in order to quiet and extinguish it. There is reason to believe that a collection of discontented individuals will be found at Mingo creek on the fourteenth instant, and, as the object of their assembling is undoubtedly to concert measures relative to this very subject, it is indispensably necessary that you should press thither with the utmost expedition. It is uncertain whether they will remain together for a long or short time; therefore, the being on the ground on the day first named for their meeting is necessary to prevent a miscarriage.

These are the outlines of your communication:

1. To state the serious impressions which their conduct has excited in the mind of the Executive, and to dilate upon the dangers attending every Government where laws are obstructed in their execution.
2. To inform them that the evidence of the late transactions has been submitted to a Judge of the Supreme Court, and that he has granted the above-mentioned certificate, whence a power has arisen to the President to call out the militia to suppress the insurrection. (See the act of May 2, 1792.)
3. To represent to them how painful an idea it is to exercise such a power, and that it is the earnest wish of the President to render it unnecessary by those endeavors which humanity, a love of peace and tranquillity, and the happiness of his fellow-citizens dictate.
4. You will then explain your appointment as Commissioners, in a language and with sentiments most conciliatory, but reconcilable to the self-respect which this Government ought to observe.
5. Whether you are to proceed further, and in what manner, must depend upon your judgment and discretion at the moment, after an estimate of the characters with whom you are conversing, their views, their influence, &c.
6. Whensoever you shall come to the point at which it may be necessary to be explicit, you are to declare that, with respect to the excise law, the President is bound to consider it as much among the laws which he is to see executed as any other. That, as to the repeal of it, he cannot undertake to make any stipulation, that being

a subject consigned by the Constitution to the Legislature, from whom alone a change of Legislative measures can be obtained. That he is willing to grant an amnesty and perpetual oblivion for every thing which has passed; and cannot doubt that any penalty to which the late transactions may have given birth, under the laws and within the jurisdiction of Pennsylvania, may be also wiped away—but upon the following conditions: That satisfactory assurances be given that the laws be no longer obstructed in their execution by any combinations, directly or indirectly: and that the offenders against whom process shall issue for a violation of or an opposition to the laws, shall not be protected from the free operation of the law. Nothing will be enforced concerning the duties of former years if they will fairly comply for the present year.

7. If they speak of the hardship of being drawn to the federal courts at a distance, to that no other reply can be made than this: that the inconvenience, whatsoever it may be, was the act of their own Representatives, and is continued as being still their sense; that, however, on all occasions which will permit the State courts to be used without inconvenience to the United States, or danger of their being frustrated in the object of the suits and prosecutions, the State courts will be resorted to; but the choice of jurisdictions must always depend upon the discretion of the United States, and, therefore, nothing more specific can be said at present.

8. Whensoever you shall choose to speak of the ulterior measures of the Government, you will say that orders have already issued for the proper militia to hold themselves in readiness, and that every thing is prepared for their movement, (as will be seen by the proclamation No. 3,) and is known to yourselves from the communications of the Government; but that these movements will be suspended until your return.

9. These are said to be the outlines; you will fill them up, and modify them so as most effectually to prevent, if possible, the last dreadful necessity which the President so much deprecates; and you may, in particular, assure any individuals of pardon who will expiate their offence by a compliance with the law.

10. You will keep the Executive minutely and constantly informed of all your proceedings, and will use expresses whensoever you think proper, at the public expense.

11. You will be allowed eight dollars per day and your expenses, and may employ a proper person to act as your clerk, who shall be paid whatsoever you may certify him to deserve. The sum of one thousand dollars is advanced to you on account.

12. William Bradford is empowered to add the name of Thomas Smith, or any other proper person, if either J. Ross or J. Yeates shall refuse or be unable to attend.

EDMUND RANDOLPH,  
*Secretary of State.*

TO JAMES ROSS, JASPER YEATES, and  
WILLIAM BRADFORD.

*Opposition to the Excise Law.*

DEPARTMENT OF STATE, Aug. 8, 1794.

GENTLEMEN: In pursuance of instructions from the President of the United States, you, or any one or more of you are hereby authorized and empowered forthwith to repair to the counties on the western side of the Allegany mountain, in the State of Pennsylvania, there to confer with such bodies or individuals as you may approve concerning the commotions, which are referred to in the proclamation of the President of the United States, bearing date the 7th day of August instant; and whatsoever promise or engagement you shall make in behalf of the Executive of the United States, the same will be ratified in the most ample manner.

Given under my hand, and the seal of office of the Department of State, the eighth [L. s.] day of August, one thousand seven hundred and ninety-four.

EDMUND RANDOLPH,  
*Secretary of State.*

To JAMES ROSS, JASPER YATES, and  
WILLIAM BRADFORD.

PHILADELPHIA, Sept. 24, 1794.

The Commissioners, appointed to confer with the citizens in the western counties of Pennsylvania, in order to induce them to submit peaceably to the laws, and to prevent the necessity of using coercion to enforce their execution, respectfully report to the President of the United States:

That, in pursuance of their instructions, they repaired to the western counties; and, on their arrival there, found that the spirit of disaffection had pervaded other parts of the fourth survey of Pennsylvania, besides those counties declared to be in a state of insurrection; that all the offices of inspection established therein had lately been violently suppressed; and that a meeting of persons, chosen by most of the townships, was assembled at Parkinson's Ferry, for the purpose of taking into consideration the situation of the western country. This assembly, composed of citizens coming from every part of the fourth survey, would have furnished a favorable opportunity for a conference and mutual explanation; but as they met in the open fields, and were exposed to the impressions of a number of rash and violent men (some of them armed) who surrounded them, an immediate communication with the whole body would have been inconvenient and hazardous. The meeting was probably of that opinion also; for, soon after the appointment of Commissioners was announced to them, they resolved that a committee, to consist of three persons from each county, should be appointed to meet any Commissioners that might have been or might be appointed by the Government; and that they should report the result of their conference to the standing committee, which was to be composed of one person from each township. As soon as this committee of conference were nominated, they agreed to meet at Pittsburg, on the 20th of the same month.

The underwritten accordingly repaired to that place, and were soon after joined by the honorable Thomas McKean and William Irvine, esqrs., who had been appointed Commissioners on the part of the Executive of Pennsylvania. A full and free communication was immediately had with those gentlemen as to the powers delegated, and the measures proper to be pursued at the expected conference.

On the day appointed a sub-committee of the conferees waited on the Commissioners, and arranged with them the time, place, and manner of conference. It was agreed that it should be had the next morning at the house of John McMasers, in Pittsburg, and should be private.

On the 21st, all the Commissioners met the conferees at the place appointed. Of the latter there were present John Kirkpatrick, George Smith, and John Powers, from Westmoreland county; David Bradford, James Marshall, and James Edgar, from Washington county; Edward Cook, Albert Gallatin, and James Lang, from Fayette county; Thomas Morton, John Lucas, H. H. Brackenridge, from Allegany county; together with William McKinley, William Sutherland, and Robert Stevenson, who were inhabitants of Ohio county, in Virginia.

The conference was begun by the underwritten, who expressed the concern they felt at the events which had occasioned that meeting, but declared their intention to avoid any unnecessary observations upon them, since it was their business to endeavor to compose the disturbances which prevailed, and to restore the authority of the laws by measures wholly of a conciliatory nature.

It was then stated, that the formal resistance which had lately been given to the laws of the United States violated the great principle on which Republican Government is founded; that every such Government must, at all hazards, enforce obedience to the general will; and that, so long as they admitted themselves to be a part of the nation, it was manifestly absurd to oppose the national authority.

The underwritten then proceeded to state the obligations which lay on the President of the United States to cause the laws to be executed; the measures he had taken for that purpose; his desire to avoid the necessity of coercion; and the general nature of the powers he had vested in them; and, finally, requested to know whether the conferees could give any assurances of a disposition in the people to submit to the laws, or would recommend such submission to them.

The Commissioners, on the part of the State of Pennsylvania, then addressed the conferees on the subject of the late disturbances in that country; forcibly represented the mischievous consequences of such conduct; explained the nature of their mission; and declared they were ready to promise, in behalf of the Executive authority of the State, a full pardon and indemnity for all that was past, on condition of an entire submission to the laws.

On the part of the conferees a narrative was given of those causes of discontent and uneasi-

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ness which very generally prevailed in the minds of the people in the western counties, and which had discovered themselves in the late transactions. Many of these, they said, had long existed, and some of them from the settlement of that country. Among other causes of discontent, they complained of the decisions of the State courts, which discountenanced improvement titles, and gave the preference to paper titles; of the war which had so long vexed the frontiers; and of the manner in which that war had been conducted. They complained that they had been continually harassed by militia duty, in being called out by the State Government to repel incursions, &c.; that the General Government had been inattentive to the execution of the Treaty of Peace respecting the Western posts, and remiss in asserting the claim to the navigation of the Mississippi; that the acts for raising a revenue on distilled spirits were unequal and oppressive, in consequence of their local circumstances; that Congress had neglected their remonstrances and petitions; and that there was great hardship in being summoned to answer for penalties in the courts of the United States at a distance from the vicinage. They also mentioned the suspension of the settlement at Presqu'isle, the engrossing of large quantities of land in the State by individuals, the killing of certain persons at General Neville's house, and the sending of soldiers from the garrison at Pittsburg to defend his house, as causes of irritation among the people. To these they added the appointment of General Neville as inspector of the survey, whose former popularity had made his acceptance of that office particularly offensive.

They said they were persuaded that the persons who were the actors in the late disturbances had not originally intended to have gone so far as they had gone, but were led to it from the obstinacy of those who refused to do what was demanded of them; that the forcible opposition which had been made to the law was owing to the pressure of the grievance; but, if there was any prospect of redress, no people would be more willing to show themselves good citizens.

The Commissioners expressed their surprise at the extent of these complaints, and intimated that if all these matters were really causes of uneasiness and disaffection in the minds of the people, it would be impossible for any Government to satisfy them. But as some of these complaints were of a nature more serious than others, though they could not speak officially, they stated what was generally understood as to the conduct, measures, and expectations of Government respecting the Mississippi navigation; the Treaty of Peace; the suspension of the settlement at Presqu'isle, &c.; that, as to the acts of Congress which had been forcibly opposed, if it were proper they should be repealed, Congress alone could do it; but that while they were laws, they must be carried into execution; that the petitions of the western counties had not been neglected, nor their interests overlooked; that, in fact, the local interests of those counties were better represented

than those of any other part of the State; they having no less than three gentlemen in the House of Representatives, when it appeared by the census that their numbers would not entitle them to two; that the acts in question had been often under the consideration of Congress; that they had always been supported by a considerable majority, in which they would find the names of several gentlemen, considered, in those counties, as the firmest friends of their country; that, although the general interests of the Union did not admit of a repeal, modifications had been made in the law, and some favorable alterations, in consequence of their representations; and that, at the last session, the State courts had been vested with a jurisdiction over offences against those acts, which would enable the President to remove one of their principal complaints; that the convenience of the people had been, and would always be, consulted by the Government; and the conferees were desired to say, if there was anything in the power of the Executive that yet remained to be done to make the execution of the acts convenient and agreeable to the people.

One of the conferees then inquired whether the President could not suspend the execution of the excise acts until the meeting of Congress; but he was interrupted by others, who declared that they considered such a measure as impracticable. The Commissioners expressed the same opinion; and the conversation then became more particular, respecting the powers the Commissioners possessed; the propriety and necessity of the conferees expressing their sense upon the proposals to be made, and of their calling the standing committee together before the 1st of September. But as it was agreed that the propositions and answers should be reduced to writing, the result is contained in the documents annexed, and it appears unnecessary to detail the conference further.

The underwritten accordingly presented to the conferees a letter, (of which a copy, marked No. 1, is annexed;) and the following day they received an answer from them, in which they declare that they are satisfied that the Executive had, in its proposals, gone as far as could be expected; that, in their opinion, it was the interest of the country to accede to the law; and that they would endeavor to conciliate not only the committee to whom they were to report, but the public mind in general to their sense of the subject. (A copy of this letter also is annexed, No. 2.)

The underwritten then proceeded to state, in writing, what assurances of submission would be deemed full and satisfactory, and to detail more particularly the engagements they had power to make. This detail was submitted to the inspection of a sub-committee of the conferees, who candidly suggested such alterations as appeared to them necessary to render the proposals acceptable. From a desire to accommodate, most of the alterations suggested by those gentlemen were adopted; and though some of them were rejected, the reasons given appeared to be satisfac-

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tory, and no further objections remained. (A copy of this detail is marked No. 3.)

The conferees, on the following day, explicitly approved of the detail thus settled, engaged to recommend the proposals to the people, and added, that however it might be received, they were persuaded nothing more could be done by the Commissioners, or them, to bring the business to an accommodation. (No. 4 is a copy of their letter.)

So far as this letter respects the gentlemen from Ohio county, in Virginia, a reply was made, and some arrangements entered into with them, the nature and extent of which appear by the correspondence. (Copies of which are annexed, numbered 5, 6, 7, and 8.)

The hopes excited by the favorable issue of this conference were not realized by a correspondent conduct in the citizens who composed what was called "the standing committee." They assembled at Brownsville (Redstone Old Fort) on the 28th August, and broke up on the 29th, and on the following day, a letter was received from Edward Cook, their chairman, announcing that difficulties had arisen, and that a new committee of conference was appointed; and although the resolve which is annexed was passed, it did not appear that the assurances of submission which had been demanded had been given. (Copies of this letter and resolve are marked Nos. 9 and 10.)

The underwritten were informed by several of the members of that meeting, as well as other citizens who were present at it, that the report of the committee of conference, and the proposals of the Commissioners, were unfavorably received; that rebellion and hostile resistance against the United States were publicly recommended by some of the members; and that so excessive a spirit prevailed, that it was not thought prudent or safe to urge a compliance with the terms and preliminaries prescribed by the underwritten, or the Commissioners from the Governor of Pennsylvania. All that could be obtained was the resolve already mentioned, the question upon it being decided by ballot; by which means each member had an opportunity of concealing his opinion and of sheltering himself from the resentment of those from whom violence was apprehended. But notwithstanding this caution, the opinion was so far from being unanimous, that out of fifty-seven votes, there were twenty-three nays, leaving a majority of only eleven: and the underwritten have been repeatedly assured, by different members of that meeting, that if the question had been publicly put, it would have been carried in the negative by a considerable majority.

With a view of counteracting the arts and influence of the violent, the underwritten, on the 27th of August, addressed a letter to the late conferees, authorizing them to assure the friends of order, who might be disposed to exert themselves to restore the authority of the laws, that they might rely on the protection of Government, and that measures would be taken to suppress and punish the violence of those individuals who might dissent from the general sentiment. This letter (a copy

of which is marked No. 11) was delivered to one of the conferees going to Brownsville; but he afterwards informed the underwritten that the gentleman to whom it was addressed did not "think it prudent to make any use of it, as the temper which prevailed was such that it would probably have done more harm than good."

The conduct of the meeting at Brownsville, notwithstanding the thin veil thrown over it by the resolve already mentioned, was said to be considered by many (and especially by the violent party) as a rejection of the terms. It was certainly a partial rejection of those proposed by the underwritten, and a total one of the preliminaries prescribed by the State Commissioners, who had required assurances from the members of that meeting only, and not from the people themselves.

Having, therefore, no longer any hopes of a universal, or even general submission, it was deemed necessary, by a solemn appeal to the people, to ascertain as clearly as possible the determination of every individual; to encourage and oblige the friends of order to declare themselves; to recall as many of the disaffected as possible to their duty, by assurances of pardon dependent on their individual conduct; and to learn with certainty what opposition Government might expect if military coercion should be finally unavoidable.

To secure these advantages, the underwritten were of opinion that the assurances of submission required of the people ought not only to be publicly given, but ought also to be reduced to writing; and that the state of each county should be certified by those who were to superintend the meetings at which the disposition of the people was to be ascertained.

On the 1st instant, nine of the gentlemen appointed by the meeting at Brownsville assembled at Pittsburg, and in the afternoon requested a conference with the Commissioners, which was agreed to. They produced the resolves by which they were appointed, and entered into some explanation of the nature of their visit; but being desired to communicate it in writing, they withdrew, and soon after sent a letter addressed to the Commissioners of the United States and of the State of Pennsylvania; to which an answer was immediately written. (Copies of these letters are annexed, Nos. 12 and 13.)

As no part of their letter, although addressed to the Commissioners from Pennsylvania, related to the preliminaries prescribed by them, they made no answer in writing; but, in a conference held the next morning with those nine gentlemen, they verbally declared to them their entire concurrence in the sentiments contained in the letter from the underwritten; and they expressed, at some length, their surprise and regret at the conduct of the meeting at Brownsville. The conferees declared themselves satisfied with the answer they had received—avowed an entire conviction of the necessity and propriety of an early submission in the manner proposed, and offered immediately to enter into the detail for settling the time, place, and manner, of taking the sense of the people. (A copy of their

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letter, which also expresses these sentiments, is annexed, No. 14.)

It was accordingly agreed between the Commissioners on the one part, and these gentlemen on the other, that the people should assemble for the purpose of expressing their determination, and giving the assurances required, on the 11th instant; and the mode of ascertaining the public sentiments of the citizens resident in the fourth survey of Pennsylvania was clearly and definitely prescribed by the unanimous consent of all who were present at the conference. It was evident that circumstances might arise to prevent the real disposition of the citizens from being fully ascertained at these meetings, and that even arts might be used to procure such an expression of the public mind, that, while it held up an appearance of submission, might be in reality a false and delusive representation of it. It was therefore necessary that persons of character from every township or district (who might be able, from their own knowledge or the comparison of all circumstances, justly to appreciate the public opinion) should assemble and jointly certify their opinion whether there was such a general submission in their respective counties, or not; that the laws could be peaceably carried into execution. For the same purpose it was agreed to be proper that the number of those who openly refused, as well as of those who promised to submit, in their respective townships or districts, should be reported to the Commissioners. (A copy of this agreement, marked No. 15, is annexed.)

It appears that meetings were held in the several counties, in pursuance of this agreement; but the underwritten, with extreme regret, find themselves obliged to report, that, in the returns made to them, no opinions are certified that there is so general a submission in any one of the counties that an office of inspection can be immediately and safely established therein. On the contrary, the report of those who superintended the meeting in Westmoreland, states their opinion to be that such a measure would not be safe.

From Allegany county no report whatever has been received; and, although it is understood that a very great majority of those assembled in the Pittsburg district actually subscribed the declarations required, yet there is no reason to believe that there was a favorable issue in any other district. Information has been received that great violence prevailed in one of them, and that in another the majority declared their determination not to submit to the laws of the United States.

From Washington county a general return was duly transmitted to one of the Commissioners at Uniontown, signed by twenty-eight of the superintendents of the meeting. They do not, however, state the number of the yeas and nays on the question for submission. They decline giving any opinion whether there is such a general submission that an office of inspection may be established therein, but certify their opinion and belief "that a large majority of the inhabitants will acquiesce and submit to the said law, under a hope and firm belief that the Congress of the United States will repeal the law."

The report from the superintendents in Westmoreland county is equally defective, in not stating the numbers as required; but it certifies their opinion, that, as ill-disposed lawless persons could suddenly assemble and offer violence, it would not be safe immediately to establish an office of inspection in that county.

The county of Fayette rejected the mode of ascertaining the sense of the people, which had been settled between the underwritten and the last committee of conference at Pittsburg. The standing committee of that county directed those qualified by the laws of the State for voting at elections, to assemble in their election districts, and vote by ballot whether they would accede to the proposals made by the Commissioners of the United States, on the 22d of August, or not. The superintendents of these election districts report that five hundred and sixty of the people thus convened had voted for submission, and that one hundred and sixty-one had voted against it; that no judge or member of their committee had attended from the fourth district of the county, to report the state of the votes there, and that they are of opinion that a great majority of the citizens who did not attend are disposed to behave peaceably, and with due submission to the laws. But it is proper to mention, that credible and certain information has been received, that in the fourth district of that county (composed of the townships of Tyrone and Bullskin, of which the standing committee has given no account) six-sevenths of those who voted were for resistance. (Copies of the reports stated are annexed, and numbered 16, 17, and 18.)

From that part of Bedford county which is comprehended within the fourth survey of Pennsylvania, no report or returns have been sent forward, nor has any information been received that the citizens assembled there for the purpose of declaring their opinions upon questions proposed.

The written assurances of submission which have been received by the Commissioners are not numerous, nor were they given by all those who expressed a willingness to obey the laws. In Fayette county, a different plan being pursued, no written assurances were given in the manner required. In the three other counties, which, from the census taken under the laws of the State, appear to contain above eleven thousand taxable inhabitants, (in which none under the age of twenty-one are included,) the names subscribed to the papers received barely exceed two thousand seven hundred, and of these a very considerable part have not been subscribed in the mode agreed on—being either signed at a different day, unattested by any person, or wilfully varied from the settled form.

From credible information received, it appears to the underwritten, that in some townships the majority, and, in one of them, the whole of the persons assembled, publicly declared themselves for resistance. In some, although the sense of the majority was not known, yet the party for resistance was sufficiently strong to prevent any declarations for submission being openly made; and in others, the majority were intimidated or opposed by a violent minority. But, notwithstanding these



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circumstances, the underwritten firmly believe that there is a considerable majority of the inhabitants of the fourth survey who are now disposed to submit to the execution of the laws; at the same time, they conceive it their duty explicitly to declare their opinion that such is the state of things in that survey, that there is no probability that the act for raising a revenue on distilled spirits and stills can at present be enforced by the usual course of civil authority; and that some more competent force is necessary to cause the laws to be duly executed, and to insure to the officers and well-disposed citizens that protection which it is the duty of Government to afford.

This opinion is founded on the facts already stated; and it is confirmed by that which is entertained by many intelligent and influential persons, officers of justice and others, resident in the western counties, who have lately informed one of the Commissioners that whatever assurances might be given, it was, in their judgment, absolutely necessary that the civil authority should be aided by a military force, in order to secure a due execution of the laws.

**JAMES ROSS,  
J. YEATES,  
WM. BRADFORD.**

[The documents referred to in the foregoing report.]

No. 1.

*From the Commissioners on the part of the Union to the Committee of Conference, assembled at Pittsburg.*

**PITTSBURG, August 21, 1794.**

**GENTLEMEN:** Having had a conference with you on the important subject that calls us into this part of Pennsylvania, we shall now state to you in writing, agreeably to your request, the nature and object of our mission hither. Considering this as a crisis infinitely interesting to our fellow-citizens who have authorized you to confer with us, we shall explain ourselves to you with that frankness and sincerity which the solemnity of the occasion demands.

You well know that the President of the United States is charged with the execution of the laws. Obedience to the national will being indispensable in a Republican Government, the people of the United States have strictly enjoined it as his duty "to see that the laws are faithfully executed;" and when the ordinary authorities of the Government are incompetent for that end, he is bound to exert those high powers with which the nation has invested him for so extraordinary an occasion.

It is but too evident that the insurrections which have lately prevailed in some of these western counties have suppressed the usual exercise of the civil authority; and it has been formally notified to the President, by one of the associate judges, in the manner the law prescribes, "that in the counties of Washington and Allegany, in Pennsylvania, laws of the United States are opposed, and the execution thereof obstructed by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or the powers vested in

the marshal of that district." He therefore perceives, with the deepest regret, the necessity to which he may be reduced, of calling forth the national force in order to support the national authority, and to cause the laws to be executed; but he has determined previously to address himself to the patriotism and reason of the people of the western counties, and to try the moderation of Government, in hopes that he may not be compelled to resort to its strength. But we must not conceal from you that it is also his fixed determination, if these hopes should be disappointed, to employ the force, and, if it be necessary, the whole force of the Union, to secure the execution of the laws. He has, therefore, authorized us to repair hither, and by free conferences and the powers vested in us, to endeavor to put an end to the present disturbances, and to the opposition to the execution of the laws, in a manner that may be finally satisfactory to all our fellow-citizens.

We hope that this moderation in the Government will not be misconstrued by the citizens to whom we are sent. The President, who feels a paternal solicitude for their welfare, wishes to prevent the calamities that are impending over them; to state to them clearly the inevitable consequences of further resistance; to recal them to their duty; and to prove to the whole world, that if military coercion must be employed, it is their choice, and not his.

The powers vested in us will enable us so to arrange the execution of the acts for raising a revenue on distilled spirits and stills, that little inconvenience will arise therefrom to the people; to prevent, as far as is consistent with the public interests, the commencing prosecutions under those acts at a distance from the places where the delinquents reside; to suspend prosecutions for the late offences against the United States; and even to engage for a general pardon and oblivion of them.

But, gentlemen, we explicitly declare to you, that the exercise of these powers must be preceded by full and satisfactory assurances of a sincere determination in the people to obey the laws of the United States, and their eventual operation must depend upon a correspondent acquiescence in the execution of the acts which have been opposed. We have not (and, coming from the Executive, you well know that we cannot have) any authority to suspend the laws, or to offer the most distant hopes that the acts, the execution of which has been obstructed, will be repealed. On the contrary, we are free to declare to you our private opinions, that the National Councils, while they consult the general interests of the Republic, and endeavor to conciliate every part by local accommodations to citizens who respect the laws, will sternly refuse every indulgence to men who accompany their requests with threats, and resist by force the public authority.

Upon these principles we are ready to enter with you into the detail necessary for the exercise of our powers; to learn what local accommodations are yet wanting to render the execution of the laws convenient to the people; to concert with you measures for restoring harmony and order, and for

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burying the past in oblivion; and to unite our endeavors with yours to secure the peace and happiness of our common country.

It is necessary, however, to apprize you thus early that, at present, we do not consider ourselves as authorized to enter into any conferences on this subject after the 1st of September ensuing. We therefore hope the business will be so conducted that some definitive answer may be given to us before that day.

We cannot believe that, in so great a crisis, any attempts to temporize and procrastinate will be made by those who sincerely love their country, and wish to secure its tranquillity.

We also declare to you, that no indulgence will be given to any future offence against the United States, and that they who shall hereafter directly or indirectly oppose the execution of the laws must abide the consequences of their conduct.

JAMES ROSS,  
J. YEATES,  
WM. BRADFORD.

No. 2.

*The following is the answer of the committee.*

PITTSBURG, August 22, 1794.

GENTLEMEN: Having, in our conference, at considerable length stated to you the grounds of that discontent which exists in the minds of the people of this country, and which has lately shown itself in acts of opposition to the excise law, you will consider us as waiving any question with regard to the nature of those acts, whether treasonable, or amounting only to riot and breach of the peace; of course, as waiving the question of the constitutional power of the President to call upon the force of the Union to suppress them. It is our object, as it is yours, to compose the disturbance.

We are satisfied that, in substance, you have gone as far as we could expect the Executive to go. It only remains to ascertain your propositions more in detail, and to say what arrangements it may be in your power to make with regard to convenience in collecting the revenue under the excise laws; how far it may be consistent with the public interest to prevent commencing prosecutions under those laws at a distance from the places where the delinquents reside; on what condition or circumstance prosecutions for the late violations of the laws shall be suspended; that is to say, whether on the individual keeping the peace, or on its being kept by the country in general; and also with regard to the general amnesty, whether the claiming the benefit of it by an individual shall depend on his own future conduct or that of the whole community.

We have already stated to you, in conference, that we are empowered to give you no definitive answer with regard to the sense of the people on the great question of acceding to the law, but that, in our opinion, it is the interest of the country to accede; and that we shall make this report to the committee to whom we are to report, and state to them the reasons of our opinion, that so far as they may appear to have weight they may be regarded by them. It will be our endeavor to con-

ciliate not only them, but the public mind in general, to our sense on this subject; for this purpose, we hope to be assisted by you in giving all that extent and precision, clearness and certainty to your propositions, as may satisfy the understandings and engage the acquiescence of the people.

It is to be understood that, in acceding to the law, no inference is to be drawn, or construction made, that we will relinquish a constitutional opposition; but that we will invariably, undeviatingly, and constantly pursue every legal means and measure of obtaining a repeal of the law in question.

As we are disposed with you to have the sense of the people taken on the subject of our conference as speedily as may be, with that view we have resolved to call the committee to whom our report is to be made at an earlier day than had been appointed, to wit, to meet on Thursday, the 28th instant, but have not thought ourselves justifiable in changing the place, to wit, at Redstone, (Old Fort,) on the Monongahela.

By order of the committee:

EDWARD COOK, *Chairman.*

To the COMMISSIONERS

*on the part of the Union.*

No. 3.

The Commissioners appointed by the President of the United States, to confer with the citizens in the western parts of Pennsylvania, having been assured by the committee of conference of their determination to approve the proposals made, and to recommend to the general committee, appointed by the meeting at Parkinson's Ferry, a submission to the acts of Congress, do now proceed to declare what assurances of submission will be deemed full and satisfactory, and to detail the engagements which they have power to make.

1st. It is expected and required by the said Commissioners, that the citizens composing the general committee do, on or before the first day of September, explicitly declare their determination to submit to the laws of the United States; and that they will not, directly or indirectly, oppose the execution of the acts for raising a revenue on distilled spirits and stills.

2d. That they do explicitly recommend a perfect and entire acquiescence under the execution of the said acts.

3d. That they do, in like manner, recommend that no violence, injuries, or threats be offered to the person or against the property of any officer of the United States, or citizens complying with the laws, and do declare their determination to support (as far as the laws require) the civil authority, in affording the protection due to all officers and citizens.

4th. That measures be taken to ascertain, by meetings in election districts or otherwise, the determination of the citizens in the fourth survey of Pennsylvania to submit to the said laws; and that satisfactory assurances be given to the said Commissioners that the people have so determined to submit, on or before the 14th of September next.

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The said Commissioners, if a full and perfect compliance with the above requisitions shall take place, have power to promise and engage in manner following, to wit:

1st. No prosecution for any treason or other indictable offence against the United States, committed in the fourth survey of Pennsylvania before this day, shall be commenced or proceeded on until the 10th of July next.

2d. If there shall be a general and sincere acquiescence in the execution of the said laws until the said 10th day of July next, a general pardon and oblivion of all such offences shall be granted; excepting therefrom, nevertheless, every person who shall in the meantime wilfully obstruct, or attempt to obstruct, the execution of any of the laws of the United States, or be in anywise aiding or abetting therein.

3d. Congress having, by an act passed on the 5th day of June last, authorized the State courts to take cognizance of offences against the said acts for raising a revenue upon distilled spirits and stills, the President has determined that he will direct suits against such delinquents to be prosecuted therein, if, upon experiment, it be found that local prejudices or other causes do not obstruct the faithful administration of justice; but it is to be understood that of this he must be the judge, and that he does not mean by this determination to impair any power vested in the Executive of the United States.

4th. Certain beneficial arrangements for adjusting delinquencies and prosecutions for penalties now depending shall be made, and communicated by the officers appointed to carry the said acts into execution.

Given under our hands, at Pittsburg, this 22d day of August, 1794.

JAMES ROSS,  
J. YEATES,  
WM. BRADFORD.

To the COMMITTEE OF CONFERENCE.

No. 4.

PITTSBURG, August 23, 1794.

GENTLEMEN: We presume it has been understood by you that the conference on our part consists of members not only from the counties of Pennsylvania west of the Allegany mountains, but also from Ohio county, in Virginia, and your propositions made in general by your first letter being addressed to this conference, the Ohio county was considered as included; yet in your propositions, made in detail by your last, you confine them to the survey within Pennsylvania. We would request an explanation on this particular.

We have only further to say, we shall make a faithful report of your propositions, which we approve of, and will recommend to the people; and, however they may be received, we are persuaded nothing more could have been done by you or us to bring this business to an accommodation.

Signed by order of the committee.

EDWARD COOK, *Chairman.*

To the COMMISSIONERS

on the part of the Union.

No. 5.

To which the following answer was returned:

PITTSBURG, August 23, 1794.

GENTLEMEN: Having received assurances of your approbation of the propositions made by us, and of your determination to recommend them to the people, we have nothing further to add, except to reply to that part of your letter which relates to the gentlemen from Ohio county.

The whole tenor of our letter of the 21st instant shows that we had come among you in consequence of the disturbances which had prevailed in the western parts of Pennsylvania, to prevent the actual employment of military coercion there, as contemplated in the President's proclamation, and that the late offences referred to were the insurrections which had prevailed in some of the western counties. We therefore cannot extend our propositions.

In addition to this, we are well assured that the people of Ohio county have not generally authorized these gentlemen to represent them, and we cannot at present undertake to make any definite arrangement with them.

We are, however, willing to converse with these gentlemen on this subject, and we have no doubt that, on satisfactory proofs of their determination to support the laws of their country, and of an entire submission to them by those from whom they come being given, the President will, upon our recommendation, extend a similar pardon to any late offences committed against the United States, if such there be committed. We are willing, on receiving such assurances from them, to recommend such application accordingly.

JAMES ROSS,  
J. YEATES,  
WM. BRADFORD.

To the COMMITTEE OF CONFERENCE.

No. 6.

The following communication was made to the Commissioners by the persons said to have been sent from Ohio county, in Virginia.

PITTSBURG, August 23, 1794.

GENTLEMEN: We have seen, by your letter of this day, that you have been well assured that the people of Ohio county did not generally authorise us to represent them. All we have to say on that subject is, that we were authorised fully and generally by such persons as met on that occasion. Whether any of the inhabitants were dissatisfied with our being appointed for that purpose, or whether there were any who did not wish an appointment to take place at all, we know not; but we pretend to have no other disine than that of representing such of the citizens of Ohio county as sent us here.

Waving, however, the near personal subject, we think it a duty we owe our fellow-citizens, to wish (and we know it to have been the opinion of the whole committee of conference) that no distinction should be made between offences committed upon the same occasion, arising from the same source,

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and perpetrated at the same time, whether they happened in Pennsylvanah or in Virginia; and we therefore hope you will conceive it, upon full examination, to be part of your present pacific mission to satisfy the minds of the people of Virginia as well as those of Pennsylvania; and that you will give assurances that the same proofs which you require from the people of Pennsylvania of there determination to submit to the laws shall be deemed sufficient when given by the people of Ohio county, to induce you to recommend to the President to extend a similar pardon to any offences committed there against the United States; and that, whatever objects you may have to consider us in the same point of view with the other members of the committee of conference, you will not require different conditions from, or propose different terms to, the citizens of the too States, &c.\*

We have the honor to be, with respect, gentlemen, your most obedient and very humble servants,

**ROBT. STEPHENSON,  
WILLIAM SUTHERLAND,  
WILLIAM MCKINLEY.**

To the COMMISSIONERS for the U. S.

## No. 7.

**GENTLEMEN:** Having conversed with you on the subject of your letter of this date, we declare to you that, if the same declarations and assurances are made by you, which it is required should be made by the citizens to be assembled at Redstone, and if satisfactory assurances are also given to us of a sincere determination of those individuals in Ohio county, who sent you hither, to submit to the laws for raising a revenue on distilled spirits and stills, on or before the 14th September next, in such case we will recommend to the President of the United States your petition, requesting that a pardon may be granted for any indictable offence against the United States, committed in Ohio county since the 15th day of July last, and before the present day, on the same terms offered to the inhabitants of the fourth survey of Pennsylvania. But, as certain bonds have been lately taken by force from Zaccheus Biggs, the collector of the said revenue in Ohio county, it is to be clearly understood that said pardon shall not extend to prevent any civil remedy against those who have destroyed the said bonds, or are parties to them.

Given under our hands, August 23, 1794.

**JAMES ROSS,  
J. YEATES,  
WM. BRADFORD.**

To Messrs. ROBERT STEPHENSON, WILLIAM SUTHERLAND, and WILLIAM MCKINLEY.

To which the following reply was made.

## No. 8.

PITTSBURG, August 23, 1794.

**GENTLEMEN:** Having Conceder your Letter of this Deate since the Departur of the speache

Comatie delegated from Westmorland Washington Featt & Alegunie countis in Pensilvenea & Considering our Selves a Justifyabel repentation of those inhabtents of Ohio County by Whowe we were Deligated & a part of that speachell Comitee to whom your pproposals wear mead and Accepted yesterday & the day posding, and relying on the faith alrdy pledged by you and Accepted by the Speachell Comatee we clen entereng any further on this Bussens untell we Consult our Constaituents & the Comatee of Safety.

We are, Gentl. with Esteem, Your most Obed. Humble Servt.\*

**ROBERT STEPHENSON,  
WILLIAM SUTHERLAND,  
WM. M'KINLY.**

## No. 9.

BROWNSVILLE, August 29, 1794.

**GENTLEMEN:** Difficulties having arisen with us, we have thought it necessary to appoint a committee to confer with you, in order to procure, if possible, some further time, in order that the people may have leisure to reflect on their true situation.

I am, gentlemen, your most obedient humble servant,

**EDWARD COOK.**

P. S. Enclosed you have a copy of the resolution on that subject.

The Hon. the COMMISSIONERS of the U. S.

## No. 10.

*At a meeting of the standing committee of the western counties, held at Brownsville, (Redstone, Old Fort,) on the 28th and 29th of August, 1794.—*

The report of the committee appointed to confer with the Commissioners of Government being taken into consideration, the following resolutions were adopted, to wit:

1. *Resolved*, That in the opinion of this committee, it is the interest of the people of this country to accede to the proposals made by the Commissioners on the part of the United States.

2. *Resolved*, That a copy of the foregoing resolution be transmitted to the said Commissioners.

**EDW. COOK, Chairman.**

A true copy: **ALBERT GALLATIN.**

## No. 11.

*The following letter was delivered to Hugh H. Brackenridge, just before his departure to Redstone, (Old Fort,) directed "To Messrs. Kirkpatrick, Smith, Powers, D. Bradford, Marshall, Edgar, Cook, Gallatin, Lang, Morton, Lucas, and Brackenridge, late conferees."*

PITTSBURG, August 27, 1794.

**GENTLEMEN:** Since your departure from Pittsburg, we have transmitted information of our proceedings to the Secretary of State; and it being evident from them, that the satisfactory proofs of a sincere submission to the laws cannot be ob-

\* The spelling in the foregoing is agreeably to the original.

\* The spelling in this reply is agreeably to the original.

*Opposition to the Excise Law.*

tained before the 1st September, we may undertake to assure you that the movement of the militia will be suspended until further information is received from us.

We also authorize you to assure the friends of order, who may be disposed to exert themselves to restore the authority of the laws, that they may rely upon all the protection the Government can give; and that every measure necessary to suppress and punish the violence of ill-disposed individuals who may dissent from the general sentiment (if there should be any such) will be promptly taken in the manner the laws direct.

We are, gentlemen, your most humble servants,

JAMES ROSS,

J. YEATES.

WM. BRADFORD.

No. 12.

PITTSBURG, September 1, 1794.

**GENTLEMEN:** The committee appointed by the Committee of Safety, at Redstone, the 28th of August last, to confer with the Commissioners of the United States and State of Pennsylvania, and agreeable to the resolution of said committee, do request:

1st. That the said Commissioners give an assurance, on the part of the General Government, of an indemnity to all persons as to the arrears of excise that have not entered their stills to this date.

2d. Will the Commissioners, aforesaid give to the eleventh day of October next, to take the sense of the people at large of the four counties west of Pennsylvania, and that part of Bedford west of the Allegany mountains, and the Ohio county in Virginia, whether they will accede to the resolution of the said Commissioners as stated at large in the conference with the committee of conference met at Pittsburg the 21st day of August last?

By order of the committee:

JOHN MCLELLAND.

The Hon. the COMMISSIONERS

on the part of the U. S. and of the State of Pa.

No. 13.

PITTSBURG, September 1, 1794.

**GENTLEMEN:** We have received your letter of this date, and, as time presses, have determined to give it an immediate answer, although we shall be prevented thereby from making so full and correct a reply as the importance of the subject requires.

In our correspondence with the late committee of conference, we detailed those assurances of submission to the laws, which would have been deemed full and satisfactory, and which were necessary to the exercise of the powers vested in us. This detail was minutely settled in a conference with a sub-committee of that body. From a desire on our part to accommodate and to render the proposals as unexceptionable as possible, they were altered and modified at their request, till, being

superior to all exception, they received the unanimous approbation of those gentlemen.

The detail, thus settled, required from the standing committee assurances of their explicit determination to submit to the laws of the United States; that they would not, directly or indirectly, oppose the execution of the acts for raising a revenue upon distilled spirits and upon stills; and that they would support, as far as the laws require, the civil authority, in affording the protection due to all officers and other citizens. These assurances have not been given. On the contrary, we learn, with emotions difficult to be repressed, that in the meeting of the committee at Redstone, resistance to the laws and open rebellion against the United States were publicly advocated; and that two-fifths of that body, representing twenty-three townships, totally disapprove the proposals, and preferred the convulsions of a civil contest to the indulgence offered them by their country. Even the members composing the majority, although by a secret and undistinguishing vote they expressed an opinion that it was the interest of the people to accede to the proposals, did not themselves accede to them, nor give the assurances, nor make the recommendations explicitly required of them. They have adjourned without day, and the terms are broken on their part.

We had reason for requiring these declarations and recommendations from that body. They were a representation (in fact) of the different townships of the western counties; they were a body in whom the people had chosen to place confidence; there were among them men, whose advice and example have had influence in misleading the people, and it was proper they should be instrumental in recalling them to their duty; and an avowed determination to support the civil authority, in protecting the officers, would have assisted in repressing the violence of turbulent individuals.

Our expectations have been unfortunately disappointed; the terms required have not been acceded to. You have been sent hither to demand new terms; and it is now necessary for us to decide, whether we will return home or enter into other arrangements.

Upon reflection, we are satisfied that the President of the United States, while he demands satisfactory proofs that there will be in future a perfect submission to the laws, does not wish the great body of the people should be finally concluded by the conduct or proceedings of that committee; and if the people themselves will make the declarations required of the standing committee, and give satisfactory proofs of a general and sincere determination to obey the laws, the benefits offered may still be obtained by those individuals who shall explicitly avow their submission, as herein-after mentioned.

It is difficult to decide in what manner the said declarations and determinations of the people to submit peaceably should be taken and ascertained. We have thought much on this subject, and are fully satisfied that a decision by ballot will be wholly unsatisfactory, and that it will be easy to

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produce by these means an apparent but delusive unanimity. It is, therefore, necessary that the determination of every individual be publicly announced. In a crisis, and on a question like this, it is dishonorable to temporize. Every man ought to declare himself openly, and give his assurances of submission in a manner that cannot be questioned hereafter. If a civil contest must finally take place, the Government ought to know not only the numbers, but the names of the faithful citizens, who may otherwise be in danger of being confounded with the guilty. It therefore remains with you to say, whether you will recommend such a mode of procedure, and will immediately arrange with us the manner in which the sense of the people may be publicly taken, and written assurances of submission obtained, within the time already limited. We desire an explicit and speedy answer in writing.

You request us to "give assurances, on the part of the United States, that an indemnity shall be granted as to the arrears of excise, to all persons that have not entered their stills to this date." If it were proper to remit all arrears of duty, we cannot conceive why those who have entered their stills should not receive a similar indulgence with those who have refused to do so; nor why you demand peculiar favors for the opposers of the acts, while you abandon those who have complied to the strictness of the laws. We have gone on that subject as far as we think advisable. The clause was introduced at the request of the late committee of conference; and even the style of expressing it was settled with them. We, therefore, have nothing more to add to that subject.

You require also that time be given until the 11th day of October, in order to ascertain the sense of the people. That is wholly inadmissible. On the day of the conference, the time allowed was deemed sufficiently long; and we are sorry to perceive that delay only tends to produce an indisposition to decide. There are strong reasons, obvious to a reflecting mind, against prolonging the time a single hour. Nothing is required but a declaration of that duty which every man owes to his country, and every man before this day must have made up his mind on the subject. Six weeks have already elapsed since the ordinary exercise of civil authority has been forcibly suppressed, the officers of Government expelled, and the persons and property of well-disposed citizens exposed to the outrages of popular violence. The protection which is due to peaceable citizens; the respect which every Government owes itself, and the great interests of the United States, demand that the authority of the laws be quickly restored. To this we may add, that the militia (which, by late orders from the President, have been increased to 15,000 men, including 1,500 riflemen from Virginia, under the command of Major General Morgan,) have received orders to assemble; and we cannot undertake to promise that their march will be long suspended. All possible means to inform, to conciliate, and to recal our fellow citizens to their duty have been used. That their infatuation still continues, we regret, but are per-

sued that further moderation and forbearance will but increase it.

If the whole country shall declare its determination peaceably to submit, the hopes of the Executive will be fulfilled; but if a part of the inhabitants of the survey shall persist in their unjustifiable resistance to the lawful authority of the United States, it is not the intention of the Government to confound the innocent with the guilty; you may, therefore, assure the friends of order and the laws that they may rely upon promptly receiving all the protection the Government can give, and that effectual measures will be taken to suppress and punish the violence of those individuals who may endeavor to obstruct the execution of the laws, and to involve their country in a scene of calamity, the extent and seriousness of which it is impossible to calculate.

It is easy to perceive, from the whole scope of this letter, that no part of it is addressed to the gentlemen of Ohio county, Virginia.

JAMES ROSS,  
J. YEATES,  
WM. BRADFORD.

To ROBERT DICKEY, JOHN PROBST,  
JOHN NESBITT, JOHN MARSHEL,  
DAVID PHILLIPS, JOHN McCLELLAND,  
GEORGE WALLACE, and  
SAMUEL WILSON.

No. 14.

PITTSBURG, Sept. 2, 1794.

GENTLEMEN: We have received your letter of yesterday, and, after having duly considered its contents, we are all of opinion that it is the interest and duty of the people in the western counties of Pennsylvania to submit to the execution of the laws of the United States and of the State of Pennsylvania, upon the principles and terms stated by the Commissioners; and we will heartily recommend this measure to them. We are also ready to enter into the detail with you of fixing and ascertaining the time, place, and manner of collecting the sense of the people upon this very momentous subject.

Signed by the unanimous order of the committee:

JOHN McCLELLAND.

To the COMMISSIONERS of the United  
States and of the State of Pennsylvania.

No. 15.

At a conference between the Commissioners from the United States and the State of Pennsylvania, on the one part, and Messrs. Probst, Dickey, Nesbit, Marshel, Philips, McClelland, Wallace, and Wilson, conferees, appointed by the standing committee at Brownsville, (Redstone, Old Fort,) on the 28th and 29th days of August, 1794, it was agreed that the assurances required from the citizens in the fourth survey of Pennsylvania should be given in writing, and their sense ascertained in the following manner:

That the citizens of the said survey (Alleghany county excepted) of the age of eighteen years and



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upwards, be required to assemble on Thursday, the 11th instant, in their respective townships, at the usual place for holding township meetings; and that between the hours of twelve and seven in the afternoon of the same day, any two or more members of the meeting who assembled at Parkinson's Ferry on the 14th ultimo, resident in the township, or a justice of the peace of said township, do openly propose to the people assembled the following questions: "Do you now engage to submit to the laws of the United States, and that you will not hereafter, directly or indirectly, oppose the execution of the acts for raising the revenue upon distilled spirits and stills? And do you also undertake to support, as far as the laws require, the civil authority, in affording the protection due to all officers and other citizens?" Yea or nay.

That the said citizens, resident in Allegany county, shall meet in their respective election districts on the said day, and proceed in the same manner as if they were assembled in townships.

That a minute of the number of the yeas and nays be made immediately after ascertaining the same.

That a written or printed declaration of such engagements be signed by all those who vote in the affirmative, of the following tenor, to wit:

"I do solemnly promise henceforth\* to submit to the laws of the United States; that I will not directly nor indirectly oppose the execution of the acts for raising a revenue on distilled spirits and stills; and that I will support, as far as the law requires, the civil authority in affording the protection due to all officers and other citizens."

This shall be signed in the presence of the said members or justices, attested by him or them, and lodged in his or their hands.

That the said persons, so proposing the question stated as aforesaid, do assemble at the respective county court-houses on the 13th instant, and do ascertain and make report of the number of those who voted in the affirmative in the respective townships or districts, and of the number of those who voted in the negative; together with their opinion whether there be such a general submission of the people in their respective counties, that an office of inspection may be immediately and safely established therein.

That the said report, opinion, and written or printed declarations be transmitted to the Commissioners, or any one of them, at Uniontown, on or before the 16th instant.

If the said assurances shall be *bona fide* given in the manner prescribed, the Commissioners on the part of the United States do promise and engage in manner following, to wit:

1. No prosecution for any treason or other indictable offence against the United States, committed within the fourth survey of Pennsylvania,

before the 22d day of August last, shall be commenced or prosecuted before the 10th day of July next, against any person who shall, within the time limited, subscribe such assurance and engagement as aforesaid, and perform the same.

2. On the said 10th day of July next there shall be granted a general pardon and oblivion of all the said offences, excluding therefrom, nevertheless, every person who shall refuse or neglect to subscribe such assurance and engagement in manner aforesaid, or shall, after such subscription, violate the same, or wilfully obstruct, or attempt to obstruct, the execution of the said acts, or be aiding or abetting therein.

3. Congress having, by an act passed on the 5th day of June last, authorized the State courts to take cognizance of offences against the said acts for raising a revenue upon distilled spirits and stills, the President has determined that he will direct suits against such delinquents to be prosecuted therein, if, upon experiment, it be found that local prejudices or other causes do not obstruct the faithful administration of justice; but it is to be understood that of this he must be the judge, and that he does not mean by this determination to impair any power vested in the Executive of the United States.

4. Certain beneficial arrangements for adjusting delinquencies and prosecutions for penalties now depending shall be made and communicated by the officers appointed to carry the said acts into execution.

JAMES ROSS,  
J. YEATES,  
WILLIAM BRADFORD.

Signed, in behalf of the committee representing the fourth survey of Pennsylvania, unanimously by the members present.

JOHN PROBST,  
ROBERT DICKEY,  
JOHN NESBITT,  
DAVID PHILIPS,  
JOHN MARSHAL,  
SAMUEL WILSON,  
GEORGE WALLACE,  
JOHN McCLELLAND.

PITTSBURG, Sept. 2, 1794.

We, the underwritten, do also promise, in behalf of the State of Pennsylvania, that in case the assurances now proposed shall be *bona fide* given and performed until the 10th day of July next, an act of free and general pardon and oblivion of all treasons, insurrections, arsons, riots, and other offences inferior to riots, committed, counselled, or suffered, by any person or persons within the four Western counties of Pennsylvania, since the 14th day of July last past, so far as the same concerns the said State, or the Government thereof, shall be then granted; excluding therefrom every person who shall refuse or neglect to subscribe such assurance, or who shall, after such subscription, wilfully violate or obstruct the laws of the State or of the United States.

THOMAS McKEAN,  
WILLIAM IRVINE.

\* Objections having been made to the words "solemnly" and "henceforth," the Commissioners, by a publication in the Pittsburgh Gazette, declared their consent to their being struck out.

*Opposition to the Excise Law.*

## No. 16.

We, the subscribers, members of the committee who met at Parkinson's Ferry on the 14th August last, and justices of the peace of the different townships in Washington county, met this 13th day of September, 1794, do find ourselves under great embarrassment to express our sentiments and opinions whether there be such a general submission of the people as that an office of inspection may be immediately and safely established in this county; yet we are free to declare that no opposition shall arise from us, the undersigned, to the excise law, or to any officer appointed under it; and we believe and are of opinion that a large majority of the inhabitants of the respective townships in this county will acquiesce and submit to the said law, under a hope and firm belief that the Congress of the United States will repeal said law.

Given under our hands, at Washington court-house, the 13th of September, 1794.

DAVID BRADFORD,  
and twenty-seven others.

## No. 17.

We, the subscribers, judges of a general election, held in the several townships of the county of Westmoreland, for the purpose of ascertaining certain assurances required of the citizens by the Commissioners on the part of the Government, and agreed to on the part of the delegates, having met this day, and taken into consideration the returns from said townships, (true copies of which have been returned to one of the Commissioners,) and finding that some gave only general assurances of their submission and disposition for peace, without individually signing the same, and others, in number according to the returns by them respectively made, do certify that, in our opinion, as ill-disposed lawless persons could suddenly assemble and offer violence, it would not be safe in immediately establishing an office of inspection therein.

Given under our hands, at the court-house, in Greensburg, this 13th day of September, 1794.

JAMES McLEAN,  
EBENEZER BRADY,  
CLEMENTS BURLEIGH,  
HUGH MARTIN,  
JOHN DENNISTON,  
CHRISTOPHER FINLEY,  
JOHN KIRKPATRICK,  
JOHN YOUNG,  
JAMES CALDWELL,  
JAMES IRWIN,  
JAMES BRADY,  
JOHN ANDERSON,  
JOHN FINDLEY,  
JEREMIAH MURRAY,  
GEORGE AMENT.

## No. 18.

UNIONTOWN, Sept. 16, 1794.

We, the subscribers, having, according to resolutions of the committee of townships for the

county of Fayette, acted as judges, on the 11th instant, at the meetings of the people of the said county, respectively convened at the places, in the first, second, and third election districts, where the general elections are usually held, (no judge or member of the committee attending from the fourth and last district, which consists of the townships of Tyrone and Bullskin,) do hereby certify that five hundred and sixty of the people thus convened on the day aforesaid, did then and there declare their determination to submit to the laws of the United States in the manner expressed by the Commissioners on the part of the Union, in their letter dated the 22d day of August last; the total number of those who attended on that occasion being only seven hundred and twenty-one, that is to say, something less than one-third of the number of citizens of the said three districts. And we do further certify, that, from our previous knowledge of the disposition of the general body of the people, and from the anxiety since discovered by many (who, either from not having had notice, or from not having understood the importance of the question, did not attend) to give similar assurances of submission, we are of opinion that the great majority of those citizens who did not attend are disposed to behave peaceably and with due submission to the laws.

ALBERT GALLATIN,  
WILLIAM ROBERTS,  
GEORGE DIEUTH,  
JAMES WHITE,  
JOHN JACKSON,  
ANDREW RABE,  
THOMAS PATTERSON.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA,

## A PROCLAMATION.

Whereas, from a hope that the combinations against the Constitution and laws of the United States, in certain of the western counties of Pennsylvania, would yield to time and reflection, I thought it sufficient, in the first instance, rather to take measures for calling forth the militia than immediately to embody them; but the moment is now come when the overtures of forgiveness, with no other condition than a submission to law, have been only partially accepted; when every form of conciliation, not inconsistent with the being of Government, has been adopted without effect; when the well-disposed in those counties are unable by their influence and example to reclaim the wicked from their fury, and are compelled to associate in their own defence; when the proffered lenity has been perversely misinterpreted into an apprehension that the citizens will march with reluctance; when the opportunity of examining the serious consequences of a treasonable opposition has been employed in propagating principles of anarchy, endeavoring, through emissaries, to alienate the friends of order from its support, and inviting its enemies to perpetrate similar acts of insurrection; when it is

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manifest that violence would continue to be exercised upon every attempt to enforce the laws; when, therefore, Government is set at defiance, the contest being whether a small portion of the United States shall dictate to the whole Union, and, at the expense of those who desire peace, indulge a desperate ambition: Now, therefore, I, George Washington, President of the United States, in obedience to that high and irresistible duty consigned to me by the Constitution, to "take care that the laws be faithfully executed," deploring that the American name should be sullied by the outrages of citizens on their own Government; commiserating such as remain obstinate from delusion; but resolved, in perfect reliance on that gracious Providence which so signally displays its goodness towards this country, to reduce the refractory to a due subordination to the law, do hereby declare and make known that, with a satisfaction which can be equalled only by the merits of the militia summoned into service from the States of New Jersey, Pennsylvania, Maryland, and Virginia, I have received intelligence of their patriotic alacrity in obeying the call of the present, though painful, yet commanding necessity; that a force, which according to every reasonable expectation is adequate to the exigency, is already in motion to the scene of disaffection; that those who have confided, or shall confide, in the protection of Government, shall meet full succor under the standard and from the arms of the United States; that those who, having offended against the law, have since entitled themselves to indemnity, will be treated with the most liberal good faith, if they shall not have forfeited their claim by any subsequent conduct, and that instructions are given accordingly. And I do moreover exhort all individuals, officers, and bodies of men, to contemplate with abhorrence the measures leading directly or indirectly to those crimes which produce this resort to military coercion; to check, in their respective spheres, the efforts of misguided or designing men to substitute their misrepresentations in the place of truth, and their discontents in the place of stable Government; and to call to mind, that, as the people of the United States have been permitted, under the Divine favor, in perfect freedom, after solemn deliberation, and in an enlightened age, to elect their own Government, so will their gratitude for this inestimable blessing be best distinguished by firm exertions to maintain the Constitution and the laws. And, lastly, I again warn all persons whomsoever and wheresoever not to abet, aid, or comfort the insurgents aforesaid, as they will answer the contrary at their peril; and I do also require all officers and other citizens, according to their several duties, as far as may be in their power, to bring under the cognizance of the law all offenders in the premises.

In testimony whereof, I have caused the seal of the United States of America to be affixed to these presents, and signed the same with my hand. Done at the city of [L. S.] Philadelphia, the twenty-fifth day of September, one thousand seven hundred and

ninety-four, and of the independence of the United States of America the nineteenth.

G. WASHINGTON.

By the President:

EDM. RANDOLPH.

PHILADELPHIA, Aug. 5, 1794.

SIR: The important subject which led to our conference on Saturday last, and the interesting discussion that then took place having since engaged my whole attention, I am prepared, in compliance with your request, to state with candor the measures which, in my opinion, ought to be pursued by the Commonwealth of Pennsylvania. The circumstances of the case evidently require a firm and energetic conduct on our part, as well as on the part of the General Government; but as they do not preclude the exercise of a prudent and humane policy, I enjoy a sincere gratification in recollecting the sentiment of regret with which you contemplated the possible necessity of an appeal to arms; for I confess that in manifesting a zealous disposition to secure obedience to the Constitution and laws of our country, I too shall ever prefer the instruments of conciliation to those of coercion, and never, but in the last resort, countenance a dereliction of judiciary authority for the exertion of military force.

Under the influence of this general sentiment, I shall proceed, sir, to deliver my opinion relatively to the recent riots in the county of Alleghany, recapitulating, in the first place, the actual state of the information which I have received. It appears, then, that the marshal of the district having, without molestation, served certain process that issued from a federal court on various citizens who reside in the county of Fayette, thought it proper to prosecute a similar duty in the county of Alleghany, with the assistance and in the company of General Neville, the inspector of the excise for the western district of Pennsylvania; that, while thus accompanied, he suffered some insults and encountered some opposition: that considerable bodies of armed men, having at several times demanded the surrender of General Neville's commission and papers, attacked and ultimately destroyed his house: that these rioters, (of whom a few were killed and many wounded) having taken the marshal and others prisoners, released that officer in consideration of a promise that he would serve no more process on the western side of the Alleghany mountain: that, under the apprehension of violence, General Neville, before his house was destroyed, applied to the judges of Alleghany county for the protection of his property; but the judges, on the 17th day of July, the day on which his house was destroyed, declared that they could not, in the present circumstances, afford the protection that was requested, though they offered to institute prosecutions against the offenders: and that General Neville and the marshal, menaced with further outrage by the rioters, had been under the necessity of withdrawing from the county. To this

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outline of the actual information respecting the riots, the stoppage of the mail may be added as a matter of aggravation, and the proposed convention of the inhabitants of the neighboring counties of Pennsylvania and Virginia as matter of alarm.

Whatever construction may be given on the part of the United States, to the facts that have been recited, I cannot hesitate to declare, on the part of Pennsylvania, that the incompetency of the judiciary department of her Government to vindicate the violated laws has not at this period been made sufficiently apparent; and that the military power of the Government ought not to be employed until its judiciary authority, after a fair experiment, has proved incompetent to enforce obedience or to punish infractions of the law.

The law having established a tribunal, and prescribed the mode for investigating every charge, has likewise attached to every offence its proper punishment. If an opponent of the excise system refuses or omits to perform the duty which that system prescribes to him in common with his fellow-citizens, his refusal or omission exposes him to the penalty of the law; but the payment of the penalty expiates the legal offence. If a riot is committed in the course of a resistance to the execution of any law, the rioters expose themselves to prosecution and punishment; but the sufferance of their sentence extinguishes their crime. In either instance, however, if the strength and audacity of a lawless combination shall baffle and destroy the efforts of the judiciary authority to recover a penalty or to inflict a punishment, that authority may constitutionally claim the auxiliary intervention of a military power; but still the intervention cannot commence till the impotency of the judicial authority has been proved by experiment, nor continue a moment longer than the occasion for which it was expressly required. That the laws of the Union are the laws of the State, is a constitutional axiom that will never be controverted. That the authority of the State ought to be exerted in maintaining the authority of the Union, is a patriotic position which I have uniformly inculcated; but in executing the laws, or maintaining the authority of the Union, the Government of Pennsylvania can only employ the same means by which the more peculiarly municipal laws and authority of the State are executed and maintained. Till the riot was committed, no offence had occurred which required the aid of the State Government. When it was committed, it became the duty of the State Government to prosecute the offenders as for a breach of the public peace and the laws of the Commonwealth; and if the measures shall be precisely what would have been pursued had the riot been unconnected with the system of federal policy, all, I presume, will be done which good faith and justice can require. Had the riot been unconnected with the system of federal policy, the vindication of our laws would be left to the ordinary course of justice; and only in the last resort, at the requisition, and as an auxiliary

of the civil authority, would the military force of the State be called forth.

Experience furnishes the strongest inducements to my mind for persevering in this lenient course. Riots have heretofore been committed in opposition to the laws of Pennsylvania; but the rioters have invariably been punished by our courts of justice. In opposition to the laws of the United States, in opposition to the very laws now opposed, and in the very counties supposed to be combined in the present opposition, riots have likewise formerly occurred; but in every instance, supported by legal proof, the offenders have been indicted, convicted, and punished, before the tribunals of the State. This result does not announce a defect of jurisdiction, a want of judicial power or disposition to punish infractions of the law; or a necessity for an appeal from the political to the physical strength of the nation.

But another principle of policy deserves some consideration. In a free country it must be expedient to convince the citizens of the necessity that shall at any time induce the Government to employ the coercive authority with which it is invested. To convince them that it is necessary to call forth the military power for the purpose of executing the laws, it must be shown that the judicial power has in vain attempted to punish those who violate them; and, therefore, thinking as I do that the incompetency of the judicial power of Pennsylvania has not yet been sufficiently ascertained, I remarked, in the course of our late conference, that I did not think it would be an easy task to embody the militia on the present occasion. The citizens of Pennsylvania (however a part of them may for a while be deluded) are the friends of law and order; but when the inhabitants of one district shall be required to take arms against the inhabitants of another, their general character does not authorize me to promise a passive obedience to the mandates of Government. I believe that, as freemen, they would inquire into the cause and nature of the service proposed to them; and I believe that their alacrity in performing, as well as in accepting it, would essentially depend on their opinion of its justice and necessity.

Upon great political emergencies, the effect of every measure should be deliberately weighed. If it shall be doubted, whether saying that the judiciary power is yet untried is enough to deter us from the immediate use of military force, an anticipation of the probable consequences of that awful appeal will enable us, perhaps, satisfactorily to remove or overlook the doubt. Will not the resort to force inflame and cement the existing opposition? Will it not associate, in a common resistance, those who have hitherto peaceably, as well as those who have riotously, expressed their abhorrence of the excise? Will it not collect and combine every latent principle of discontent, arising from the supposed oppressive operations of the federal judiciary, the obstruction of the western navigation, and a variety of other local sources? May not the magnitude of the opposition, on the part of the ill-disposed, or the dis-

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satisfaction at a premature resort to arms, on the part of the well-disposed citizens of this State, eventually involve the necessity of employing the militia of other States? And the accumulation of discontent, which the jealousy engendered by that movement may produce, who can calculate, or who will be able to avert? Nor, in this view of the subject, ought we to omit paying some regard to the ground for suspecting that the British Government has already, insidiously and unjustly, attempted to seduce the citizens on our western frontier from their duty; and we know that, in a moment of desperation or disgust, men may be led to accept that as an asylum, which, under different impressions, they would shun as a snare. It will not, I am persuaded, sir, be presumed, from the expression of these sentiments, that I am insensible to the indignation which the late outrages ought to excite in the mind of a magistrate entrusted with the execution of the laws. My object, at present, is to demonstrate that, on the principles of policy as well as of law, it would be improper in me to employ the military power of the State, while its judiciary authority is competent to punish the offenders. But should the judiciary authority prove insufficient, be assured of the most vigorous co-operation of the whole force which the constitution and laws of the State entrust to me, for the purpose of compelling a due obedience to the Government; and, in that unfortunate event, convinced that every other expedient has been resorted to in vain, the public opinion will sanctify our measures, and every honest citizen will willingly lend his aid to strengthen and promote them.

The steps which, under my instructions, were taken as soon as the intelligence respecting the riots was received, will clearly, indeed, manifest the sense that I entertain upon the subject. To every judge, justice, sheriff, brigade inspector—in short, to every public officer residing in the western counties, a letter was addressed, expressing my indignation and regret, and requiring an exertion of their influence and authority to suppress the tumults and punish the offenders. The Attorney General of the State was, likewise, desired to investigate the circumstances of the riot, to ascertain the names of the rioters, and to institute the regular process of the law for bringing the leaders to justice. In addition to these preliminary measures, I propose issuing a proclamation, in order to declare (as far as I can declare them) the sentiments of the Government; to announce a determination to prosecute and punish the offenders; and to exhort the citizens at large to pursue a peaceable and patriotic conduct. I propose engaging three respectable citizens to act as commissioners for addressing those who have embarked in the present combination, upon the lawless nature and ruinous tendency of their proceedings; for inculcating the necessity of an immediate return to the duty which they owe their country; and for promising (as far as the State is concerned) a forgiveness of their past transgressions, upon receiving a satisfactory assurance that, in future, they will submit to the laws; and I

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propose, if all these expedients should be abortive, to convene the Legislature, that the ultimate means of subduing the spirit of insurrection, and of restoring tranquillity and order, may be prescribed by their wisdom and authority.

You will perceive, sir, that throughout my observations I have cautiously avoided any reference to the nature of the evidence from which the facts that relate to the riots are collected, or to the conduct which the Government of the United States may pursue on this important occasion. I have hitherto, indeed, only spoken as the Executive Magistrate of Pennsylvania, charged with a general superintendence and care that the laws of the Commonwealth be faithfully executed, leaving it, as I ought, implicitly to your judgment to choose, on such evidence as you approve, the measures for discharging the analogous trust which is confided to you in relation to the laws of the Union. But before I conclude, it is proper, under the impression of my federal obligations, to add a full and unequivocal assurance, that whatever requisition you may make, whatever duty you may impose, in pursuance of your constitutional and legal powers, will on my part be promptly undertaken and faithfully discharged.

I have the honor to be, with perfect respect, sir, your excellency's most obedient humble servant,

THO. MIFFLIN.

The President of the United States.

DEPARTMENT OF STATE, August 7, 1794.

SIR: The President of the United States has directed me to acknowledge the receipt of your letter of the 5th instant, and to communicate to you the following reply:

In requesting an interview with you on the subject of the recent disturbances in the western parts of Pennsylvania, the President, besides the desire of manifesting a respectful attention to the Chief Magistrate of a State immediately affected, was influenced by the hopes that a free conference, guided by a united and comprehensive view of the Constitutions of the United States and of Pennsylvania, and of the respective institutions, authorities, rights, and duties of the two Governments, would have assisted him in forming more precise ideas of the nature of the co-operation which could be established between them, and a better judgment of the plan which it might be advisable for him to pursue, in the execution of his trust in so important and delicate a conjuncture. This having been his object, it is matter of some regret that the course which has been suggested by you as proper to be pursued, seems to have contemplated Pennsylvania in a light too separate and unconnected. The propriety of that course in most, if not in all respects, would be susceptible of little question, if there were no Federal Government, federal laws, federal judiciary, or federal officers; if important laws of the United States, by a series of violent, as well as of artful expedients, had not been frustrated in their execution for more than three years; if officers immediately charged with their execution, after suf-

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fering much and repeated insult, abuse, personal ill-treatment, and the destruction of property, had not been compelled for safety to fly the places of their residence and the scenes of their official duties; if the service of the processes of a court of the United States had not been resisted, the marshal of the district made and detained for some time prisoner, and compelled for safety also to abandon the performance of his duty, and return, by a circuitous route, to the seat of Government; if, in fine, a judge of the United States had not, in due form of law, notified to the President, "that, in the counties of Washington and Allegany, in Pennsylvania, laws of the United States are opposed, and the execution thereof obstructed, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshal of that district." It is true your excellency has remarked that, in the plan suggested, you have only spoken as the Executive Magistrate of Pennsylvania, charged with a general superintendence and care that the laws of the Commonwealth be fully executed leaving it implicitly to the judgment of the President to choose, on such evidence as he approves, the measures for discharging the analogous trust which is confided to him in relation to the laws of the Union. But it is impossible not to think that the current of the observations in your letter, especially as to the consequences which may result from the employment of coercive measures previous to the preliminary course which is indicated in it, may be construed to imply a virtual disapprobation of that plan of conduct on the part of the General Government in the actual stage of its affairs, which you acknowledge would be proper on the part of the Government of Pennsylvania if arrived at a similar stage. Let it be assumed here, (to be more particularly shown hereafter,) that the Government of the United States is now at that point where it is admitted, if the Government of Pennsylvania was, the employment of force, by its authority, would be justifiable. And let the following extracts be consulted for the truth of the inference which has been just expressed: "Will not the resort to force inflame and cement the existing opposition? Will it not associate in a common resistance those who have hitherto peaceably, as well as those who have riotously, expressed their abhorrence to the excise? Will it not collect and combine every latent principle of discontent arising from the supposed oppressive operations of the federal judiciary, the obstruction of the western navigation, and a variety of other local sources? May not the magnitude of the opposition on the part of the ill-disposed, or the dissatisfaction of a premature resort to arms on the part of the well-disposed citizens of the State, eventually involve the necessity of employing the militia of other States? And the accumulation of discontent, which the jealousy engendered by that movement may produce, who can calculate, or who will be able to avert?"

These important questions naturally give birth to the following serious reflections. The issue of human affairs are in the hands of Providence.

Those entrusted with them in society have no other sure guide than the sincere and faithful discharge of their duty, according to the best of their judgment. In emergencies great and difficult, not to act with an energy proportioned to their magnitude and pressure is as dangerous as any other conceivable course. In the present case, not to exert the means which the laws prescribe for effectuating their own execution, would be to sacrifice those laws, and with them the Constitution, the Government, the principles of social order, and the bulwarks of private right and security. What worse can happen from the execution of those means?

If, as cannot be doubted, the great body of the citizens of the United States are attached to the Constitution which they have established for the management of their common concerns; if they are resolved to support their own authority, in that of the constitutional laws, against disorderly and violent combinations of comparatively small portions of the community; if they are determined to protect each other in the enjoyment of security to person and property; if they are decided to preserve the character of Republican Government, by evincing that it has adequate resources for maintaining the public order; if they are persuaded that their safety and their welfare are materially connected with the preservation of the Union, and, consequently, of a Government adequate to its exigencies; in fine, if they are disposed to continue that state of respectability and prosperity which is now deservedly the admiration of mankind, the enterprise to be accomplished, should a resort to force prove inevitable, though disagreeable and painful, cannot be arduous or alarming.

If, in addition to these dispositions in the community at large, the officers of the Governments of the respective States, feeling it to be not only a patriotic, but a constitutional duty (inculcated by the oath enjoined upon all the officers of a State, legislative, executive, and judicial) to support, in their several stations, the Constitution of the United States, shall be disposed, as occasion may require, (a thing as little to be doubted as the former,) with sincerity and good faith to co-operate with the Government of the United States, to second, with all their influence and weight, its legal and necessary measures by a real and substantial concert, then the enterprise to be accomplished can hardly ever be deemed difficult.

But if, contrary to the anticipations which are entertained of these favorable dispositions, the great body of the people should be found indifferent to the preservation of the Government of the Union, or insensible to the necessity of vigorous exertions to repel the danger which threatens their most important interests; or if an unwillingness to encounter partial inconveniences should interfere with the discharge of what they owe to their permanent welfare; or if, either yielding to the suggestions of particular prejudices, or misled by the arts which may be employed to infuse jealousy and discontent, they should suffer their zeal for the support of public order to be relaxed by



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an unfavorable opinion of the merits and tendency of the measures which may be adopted; if, above all, it were possible that any of the State Governments should, instead of prompting the exertions of the citizens, assist directly or indirectly in damping their ardor, by giving a wrong bias to their judgment, or by disseminating dissatisfaction with the proceedings of the General Government, or should counteract the success of those proceedings by any sinister influence whatever; then, indeed, no one can calculate, or may be able to avert, the fatal evils with which such a state of things would be pregnant. Then, indeed, the foundations of our political happiness may be deeply shaken, if not altogether overturned.

The President, however, can suppose none of these things. He cherishes an unqualified confidence in the virtue and good sense of the people, in the integrity and patriotism of the officers of the State Governments; and he counts absolutely on the same affectionate support which he has experienced upon all former occasions, and which he is conscious that the goodness of his intentions now, not less than heretofore, merits.

It has been promised to show more particularly hereafter that the Government of the United States is now at that point where it is confessed, if the State Government was, the employment of force on its part would be justifiable. This promise remains to be fulfilled.

The facts already noted establish the conclusion; but to render it palpable, it will be of use to apply them to the positions which your excellency has been pleased to lay down.

You admit that, as the offences committed respect the State, the military power of the Government ought to be employed where its judiciary authority, after a fair experiment, had proved incompetent to enforce obedience, or to punish infractions of the laws; that if the strength and audacity of a lawless combination shall baffle and destroy the efforts of the judiciary authority to recover a penalty or inflict a punishment, that authority may constitutionally claim the auxiliary intervention of the military power; that, in the last resort, at the requisition, and as an auxiliary of the civil authority, the military force of the State would be called forth. And you declare that the circumstances of the case evidently require a firm and energetic conduct on the part both of State and General Governments.

For more than three years, as already observed, certain laws of the United States have been obstructed in their execution by disorderly combinations. Not only officers, whose immediate duty it was to carry them into effect, have suffered violent personal outrage and injury, and destruction of property, at different times, but similar persecution has been extended to private citizens, who have aided, countenanced, or only complied with the laws. The violences committed have been so frequent, and such, in their degree, as to have been matter of general notoriety and alarm; and it may be added, that they have been abundantly within the knowledge and under the notice

of the judges and marshals of Pennsylvania, of superior as well as of inferior jurisdiction. If, in particular instances, they have been punished by the exertions of the magistrates, it is at least certain that their effects have been, in the main, ineffectual. The spirit has continued, and, with some intervals of relaxation, has been progressive, manifesting itself in reiterated excesses. The judiciary authority of the United States has, also, prior to the attempt which preceded the late crisis, made some fruitless efforts under a former marshal; an officer sent to execute process, was deterred from it by the manifest danger of proceeding. These particulars serve to explain the extent, obstinacy, and inveteracy of the evil.

But the facts which immediately decide the complexion of the existing crisis are these: Numerous delinquencies existed with regard to a compliance with the laws laying duties on spirits distilled within the United States, and upon stills. An armed banditti, in disguise, had recently gone to the house of an officer of the revenue in the night, attacked it, broke open the doors, and, by menaces of instant death, enforced by pistols presented at him, had compelled a surrender of his commission and books of office. Contemporary acts of violence had been perpetrated in other quarters. Processes issued out of a court of the United States to recover the penalties incident to non-compliance with the laws, and to bring to punishment the violent infractors of them in the above-mentioned case, against two of whom indictments had been found. The marshal of the district went in person to execute these processes. In the course of his duty he was actually fired upon on the high road by a body of armed men. Shortly after, other bodies of armed men (in the last instance amounting to several hundred persons) repeatedly attacked the house of the inspector of the revenue, with the declared intention of compelling him to renounce his office, and of obstructing the execution of the laws. One of these bodies of armed men made prisoner the marshal of the district, put him in jeopardy of his life, and did not release him till, for safety, and to obtain his liberty, he engaged to forbear the execution of the processes with which he was charged. In consequence of further requisitions and menaces of the insurgents, the marshal, together with the inspector of the revenue, have been since under the necessity of flying secretly, and by a circuitous route, from the scene of these transactions towards the seat of Government.

An associate justice, pursuant to the provisions of the laws for that purpose, has, in the manner already stated, officially notified the President of the existence of combinations in two of the counties of this State to obstruct the execution of the laws, too powerful to be suppressed by the judiciary authority, or by the powers of the marshal.

Thus, then, is it unequivocally and in due form ascertained, in reference to the Government of the United States, that the judiciary authority, after a fair and full experiment, has proved incompetent to enforce obedience to, or to punish infractions of the laws; that the strength and

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audacity of certain lawless combinations have baffled and destroyed the efforts of the judiciary authority to recover penalties or inflict punishment; and that this authority, by a regular notification of this state of things, has, in the last resort, as an auxiliary of the civil authority, claimed the intervention of the military power of the United States. It results, from these facts, that the case exists, when, according to the positions advanced by your excellency in reference to the State Government, the military power may, with due regard to all the requisite cautions, be rightfully interposed; and that the interposition of this power is called for, not only by principles of a firm and energetic conduct on the part of the General Government, but by the indispensable duty which the Constitution and the laws prescribe to the Executive of the United States.

In this conclusion your excellency's discernment, on mature reflection, cannot, it is presumed, fail to acquiesce; nor can it refuse its concurrence in the opinion which the President entertains, that he may reasonably expect, when called for, the zealous co-operation of the militia of Pennsylvania; that, as citizens, friends to law and order, they may comply with the call without anything that can properly be denominated "a passive obedience to the mandates of Government;" and that, as freemen, judging rightly of the cause and nature of the service proposed to them, they will feel themselves under the most sacred of obligations to accept and to perform it with alacrity. The theory of our political institutions knows no difference between the obligations of our citizens in such a case, whether it relate to the Government of the Union or of a State; and it is hoped and confided that a difference will be as little known to their affections or opinions.

Your excellency, it is also presumed, will as little doubt, on the like mature reflection, that in such a case the President could not, without an abdication of the undoubted rights and authorities of the United States and of his duty, postpone the measures for which the laws of the United States provide, to a previous experiment of the plan which is delineated in your letter.

The people of the United States have established a government for the management of their general interests. They have instituted executive organs for administering that government; and their representatives have established the rules by which those organs are to act. When their authority, in that of their Government, is attacked by lawless combinations of the citizens of part of a State, they could never be expected to approve that the care of vindicating their authority, of enforcing their laws, should be transferred from the officers of their own Government to those of a State; and this to wait the issue of a process so undeterminate in its duration as that which it is proposed to pursue; comprehending a further and full experiment of the judiciary authority of the State, a proclamation "to declare the sentiments of its Government, announce a determination to prosecute and punish offenders,

and to exhort the citizens at large to pursue a peaceable and patriotic conduct;" the sending of Commissioners "to address those who have embarked in the present combinations upon the lawless nature and ruinous tendency of their proceedings, to inculcate the necessity of an immediate return to the duty which they owe their country, and to promise, as far as the State is concerned, forgiveness of their past transactions, upon receiving a satisfactory assurance that in future they will submit to the laws," and finally, a call of the Legislature of Pennsylvania, "that the ultimate means of subduing the spirit of insurrection, and of restoring tranquillity and order, may be prescribed by their wisdom and authority."

If there were no other objection to a transfer of this kind, the very important difference which is supposed to exist in the nature and consequences of the offences that have been committed in the contemplation of the laws of the United States and those of Pennsylvania, would alone be a very serious obstacle.

The paramount considerations which forbid an acquiescence in this course of proceeding, render it unnecessary to discuss the probability of its success; else it might have been proper to test the considerations which have been mentioned as a ground of hope, by the inquiry, What was the precise extent of the success of past experiments? and especially, whether the execution of the revenue laws of Pennsylvania, within the scene in question, was truly and effectually accomplished by them; or, whether they did not rather terminate in a tacit compromise, by which appearances only were saved.

You are already, sir, advised, that the President, yielding to the impressions which have been stated, has determined to take measures for calling forth the militia, and that these measures contemplate the assembling a body of between twelve and thirteen thousand men from Pennsylvania, and the neighboring States of Virginia, Maryland, and New Jersey. The recourse thus early to the militia of the neighboring States, proceeds from a probability of the insufficiency of that of Pennsylvania alone to accomplish the object; your excellency having, in your conference with the President, confirmed the conclusion, which was deducible from the known local and other circumstances of the State, by the frank and express declaration which you made of your conviction of that insufficiency in reference to the number which could be expected to be drawn forth for the purpose.

But while the President has conceived himself to be under an indispensable obligation to prepare for that eventual resort, he has still consulted the sentiment of regret which he expressed to you at the possible necessity of an appeal to arms; and to avert it, if practicable, as well as to manifest his attention to the principle, that "a firm and energetic conduct does not preclude the exercise of a prudent and humane policy," he has (as you have been also advised) concluded upon the measure of sending, himself, Commissioners

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to the discontented counties, to make one more experiment of a conciliatory appeal to the reason, virtue, and patriotism of their inhabitants; and has also signified to you how agreeable would be to him your co-operation in the same expedient, which you have been pleased to afford. It can scarcely be requisite to add, that there is nothing he has more at heart than that the issue of this experiment, by establishing the authority of the laws, may preclude the always calamitous necessity of an appeal to arms. It would plant a thorn in the remainder of his path through life, to have been obliged to employ force against fellow-citizens, for giving solidity and permanency to blessings which it has been his greatest happiness to co-operate with them in procuring for a much-loved country.

The President receives with much pleasure the assurance you have repeated to him, that whatever requisition he may make, whatever duty he may impose, in pursuance of his constitutional and legal powers, will, on your part, be promptly undertaken and faithfully discharged; and acknowledging, as an earnest of this, and even more, the measures of co-operation which you are pursuing, he assures you in return, that he relies fully on the most cordial aid and support from you in every way which the Constitutions of the United States and of Pennsylvania shall authorize, and present or future exigencies may require.

And he requests that you will construe, with a reference to this assurance of his confidence, whatever remarks may have been made in the course of this reply to your letter, if it shall have happened that any of them have erred, through a misconception of the sentiments and views which you may have meant to communicate.

With perfect respect, I have the honor to be, sir your most obedient servant,

EDM. RANDOLPH,  
*Secretary of State.*

His Excellency Governor MIFFLIN.

PHILADELPHIA, August 12, 1794.

SIR: The Secretary of State has transmitted to me, in a letter dated the 7th of August, (but only received yesterday,) your reply to my letter of the 5th instant.

For a variety of reasons, it might be desirable at this time to avoid an extension of our correspondence upon the subject to which those letters particularly relate; but the nature of the remarks contained in your reply, and the sincerity of my desire to merit, on the clearest principles, the confidence which you are pleased to repose in me, will justify, even under the present circumstances of the case, an attempt to explain any ambiguity and to remove any prejudices that may have arisen, either from an inaccurate expression, or an accidental misconception of the sentiments and views which I meant to communicate.

That the course which I have suggested as proper to be pursued in relation to the recent

disturbances in the western parts of Pennsylvania contemplates the State in a light too separate and unconnected, is a position that I certainly did not intend to sanction in any degree that could wound your mind with a sentiment of regret. In submitting the construction of the facts which must regulate the operations of the General Government implicitly to your judgment; in cautiously avoiding any reference to the nature of the evidence from which those facts are collected, or to the conduct which the Government of the United States might pursue; in declaring that I spoke only as the Executive Magistrate of the State, charged with a general superintendence and care that its laws be faithfully executed; and, above all, in giving a full and unequivocal assurance that whatever requisition you may make, whatever duty you may impose, in pursuance of your constitutional and legal powers, would, on my part, be promptly undertaken and faithfully discharged—I thought that I had manifested the strongest sense of my federal obligations, and that so far, from regarding the State in a separate and unconnected light, I had expressly recognised the subjection of her individual authority to the national jurisdiction of the Union.

It is true, however, sir, that I have only spoken as the Executive Magistrate of the State; but, in that character, it is a high gratification to find that, according to your opinion likewise, "the propriety of the course which I suggested would, in most, if not in all respects, be susceptible of little question." Permit me then to ask, In what other character could I have spoken, or what other language did the occasion require to be employed? If the co-operation of the Government of Pennsylvania was the object of our conference, your constitutional requisition as the Executive of the Union, and my official compliance as the Executive of the State, would indubitably insure it; but if a preliminary, a separate, an unconnected conduct was expected to be pursued by the Executive Magistrate of Pennsylvania, his separate and unconnected power and discretion must furnish the rule of proceeding; and by that rule, agreeably to the admission which I have cited, "the propriety of my course would, in most if not in all respects, be susceptible of little question." It must, therefore, in justice, be remembered, that a principal point in our conference related to the expediency of my adopting, independent of the General Government, a *preliminary* measure, (as it was then termed,) under the authority of an act of the Legislature of Pennsylvania, which was passed on the 22d of September 1793, and which the Attorney General of the United States thought to be in force, but which had in fact been repealed on the 11th of April, 1793.

Upon the strictest idea of co-operative measures, however, I do not conceive, sir, that any other plan could have been suggested, consistently with the powers of the Executive Magistrate of Pennsylvania, or with a reasonable attention, on my part, to a systematic and energetic course

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of proceeding. The complicated nature of the outrage which was committed upon the public peace, gave a jurisdiction to both Governments; but in the mode of prosecuting or in the degree of punishing the offenders, that circumstance could not, I apprehend, alter or enlarge the powers of either. The State (as I observed in my last letter,) could only exert itself in executing the laws or maintaining the authority of the Union, by the same means which she employed to execute and maintain her more peculiarly municipal laws and authority; and hence I inferred, and still venture to infer, that if the course which I have suggested is the same that would have been pursued, had the riot been unconnected with the system of federal policy, its propriety cannot be rendered questionable merely by taking into our view (what I never have ceased to contemplate,) the existence of a Federal Government, federal laws, federal judiciary, and federal officers. But would it have been thought more consonant with the principle of co-operation, had I issued orders for an immediate, a separate, and an unconnected call of the militia, under the special authority which was supposed to be given by a law, or under the general authority which may be presumed to result from the Constitution? Let it be considered that you had already determined to exercise your legal powers in drafting a competent force of the militia, and it will be allowed, that if I had undertaken, not only to comply promptly with your requisition, but to embody a distinct corps for the same service, a useless expense would have been incurred by the State, an unnecessary burden would have been imposed on the citizens, and embarrassment and confusion would probably have been introduced, instead of system and co-operation. Regarding it in this point of light, indeed, it may be natural to think that, in the judiciary as well as the military department, the subject should be left entirely to the management either of the State or of the General Government; for "the very important difference which is supposed to exist in the nature and consequences of the offences that have been committed, in the contemplation of the laws of the United States and those of Pennsylvania," must otherwise destroy that uniformity in the distinction of crimes and the apportionment of punishments, which has always been deemed essential to a due administration of justice.

But let me not, sir, be again misunderstood. I do not mean by these observations to intimate an opinion or to express a wish, that "the care of vindicating the authority or of enforcing the laws of the Union should be transferred from the officers of the General Government to those of the State;" nor, after expressly avowing that I had cautiously avoided any reference to the conduct which the Government of the United States might pursue on this important occasion, did I think an opportunity could be found to infer that I was desirous of imposing a suspension of your proceedings, for the purpose of waiting the issue of the process which I designed to pursue. If,

indeed, "the Government of the United States was at that point where, it was admitted, if the Government of Pennsylvania was, the employment of force by its authority would be justifiable," I am persuaded that, on mature consideration, you will do more credit to my candor than to suppose that I meant to condemn or to prevent the adoption of those measures on the part of the General Government which, in the same circumstances, I should have approved and promoted on the part of Pennsylvania. The extracts that are introduced into the letter of the Secretary of State, in order to support that inference, can only be justly applied to the case which was immediately in contemplation—the case of the State of Pennsylvania, whose judiciary authority had not then, in my opinion, been sufficiently tried. They ought not, surely, be applied to a case which I had cautiously excluded from my view: the case of the United States, whose judiciary authority had, in your opinion, proved inadequate to the execution of the laws and the preservation of order. And if they shall be thus limited to their proper object, the justice and force of the argument which flows from them can never be successfully controverted or denied. While you, sir, were treading in the plain path designated by a positive law, with no other care than to preserve the forms which the Legislature had prescribed, and relieved from a weight of responsibility by the legal operation of a judge's certificate, I was called upon to act, not in conformity to a positive law, but in compliance with the duty which is supposed to result from the nature and constitution of the Executive office.

The Legislature had prescribed no forms to regulate my course; no certificate to inform my judgment; every step must be directed by my own discretion; and every error of construction or conduct would be charged on my own character. Hence arose an essential difference in our official situations; and I am confident that on this ground alone you will perceive a sufficient motive for my considering the objection, in point of law, to forbear the use of military force, until the judiciary authority had been tried, as well as the probable effects, in point of policy, which that awful appeal might produce.

For, sir, it is certain that, at the time of our conference, there was no satisfactory evidence of the incompetency of the judicial authority of Pennsylvania to vindicate the violated laws: I, therefore, could not, as Executive Magistrate, proceed upon a military plan; but actuated by the genuine spirit of co-operation, not by a desire to sully the dignity or to alienate the powers of the General Government, I still hoped and expected to be able on this, as on former occasions, to support the laws of the Union, or to punish the violators of them, by an exertion of the civil authority of the State Government, the State judiciary, and the State officers. This hope prompted the conciliatory course which I determined to pursue, and which, so far as respects the appointment of Commissioners, you have been pleased to incorporate with your plan. And if, after all,

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the purposes of justice could be attained, obedience to the laws could be restored, and the horrors of a civil war could be averted, by the auxiliary intervention of the State Government, I am persuaded you will join me in thinking that the idea of placing the State in a separate and unconnected point of view, and the idea of making a transfer of the powers of the General Government are not sufficiently clear or cogent to supersede such momentous considerations.

Having thus generally explained the principles contained in my letter of the 5th instant, permit me (without adverting to the material change that has since occurred in the state of our information, relative to the riots, and which is calculated to produce a corresponding change of sentiments and conduct) to remark, that many of the facts that are mentioned by the Secretary of State, in order to show that the judiciary authority of the Union, after a fair and full experiment, had proved incompetent to enforce obedience, or to punish infractions of the laws, were, before that communication, totally unknown to me. But still, if it shall not be deemed a deviation from the restriction that I have determined to impose upon my correspondence, I would offer some doubts which, in that respect, occurred to my mind on the evidence, as it appeared at the time of our conference.

When I found that the marshal had, without molestation, executed his office in the county of Fayette, that he never was insulted or opposed until he acted in company with General Neville, and that the virulence of the rioters was directly manifested against the person and property of the latter gentleman, and only incidentally against the person of the former, I thought there was ground yet to suppose (and as long as it was reasonable I wished to suppose) that a spirit of opposition to the officers employed under the excise law, and not a spirit of opposition to the officers employed in the administration of justice, was the immediate source of the outrages which we deprecate. It is true that these sources of opposition are equally reprehensible, and that their effects are alike unlawful: but on a question respecting the power of the judiciary authority to enforce obedience, or to punish infractions of the law, it seemed to be material to discriminate between the cases alluded to, and to ascertain with precision the motives and the object of the rioters. Again; as the associate judge had not, at that time, issued his certificate, it was proper to scrutinize with strict attention the nature of the evidence on which an act of Government was to be founded.

The Constitution of the Union, as well as of the State, had cautiously provided, even in the case of an individual, that "no warrant should issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." And a much higher degree of caution might reasonably be exercised in a case that involved a numerous body of citizens in the imputation of treason or felony, and required a sub-

stitution of the military for the judicial instruments of coercion. The only affidavits that I recollect to have appeared at the time of our conference, were those containing the hearsay of Colonel Mentges, and the vague narrative of the post rider. The letters that had been received from a variety of respectable citizens, not being written under the sanction of an oath or affirmation, could not acquire the legal force and validity of evidence from a mere authentication of the signatures of the respective writers. Under such circumstances doubts arose, not whether the means which the laws prescribe for effectuating their own execution should be exerted, but whether the existence of a specific case, to which specific means of redress were appropriated by the laws, had been legally established; not whether the laws, the Constitution, the Government, the principles of social order, and the bulwarks of private right and security should be sacrificed, but whether the plan proposed was the best calculated to preserve those inestimable blessings. And, recollecting a declaration which was made in your presence, "that it would not be enough for a military force to disperse the insurgents, and to restore matters to the situation in which they were, two or three weeks before the riots were committed, but that the force must be continued for the purpose of protecting the officers of the revenue, and securing a perfect acquiescence in the obnoxious law," I confess, sir, the motives to caution and deliberation strike my mind with accumulated force. I hope, however, that it will never be seriously contended that a military force ought now to be raised with any view but to suppress the rioters; or that, if raised with that view, it ought to be employed for any other. The dispersion of the insurgents is, indeed, obviously the sole object for which the act of Congress has authorized the use of military force, on occasions like the present, for, with a generous and laudable precaution, it expressly provides that, even before that force may be called forth, a proclamation shall be issued, commanding the insurgents to disperse, and retire peaceably to their respective abodes within a limited time.

But the force of these topics I again refer implicitly to your decision; convinced, sir, that the goodness of your intentions now, not less than heretofore, merits an affectionate support from every description of your fellow-citizens. For my own part, I derive a confidence from the heartfelt integrity of my views, and the sincerity of my professions, which renders me invulnerable by any insinuation of practising a sinister or deceitful policy.

I pretend not to infallibility in the exercise of my private judgment, or in the discharge of my public functions; but in the ardor of my attachment, and in the fidelity of my services to our common country, I feel no limitation; and your excellency, therefore, may justly be assured that, in every way which the Constitutions of the United States and of Pennsylvania shall authorize and present, or future exigencies may require, you will receive my most cordial aid and support.

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I am, with perfect respect, sir, your excellency's most obedient humble servant,

THOS. MIFFLIN.

The PRESIDENT OF THE UNITED STATES.

PHILADELPHIA, August 30, 1794.

SIR: I am directed by the President to acknowledge the receipt, on the 17th, of your excellency's letter dated the 12th instant.

The President feels with you the force of the motives which render undesirable an extension of correspondence on the subject in question. But the case being truly one of great importance and delicacy, these motives must yield, in a degree, to the propriety and utility of giving precision to every part of the transaction, and guarding effectually against ultimate misapprehension.

To this end it is deemed advisable, in the first place, to state some facts which either do not appear, or are conceived not to have assumed an accurate shape in your excellency's letter. They are these:

1. You were informed at the conference that all the information which had been received had been laid before an associate justice, in order that he might consider and determine whether such a case as is contemplated by the second section of the act which provides for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, had occurred; that is, whether combinations existed too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshal by that act; in which case the President is authorized to call forth the militia to suppress the combinations, and to cause the laws to be duly executed.

2. The idea of a preliminary proceeding by you was pointed to an eventual co-operation with the Executive of the United States, in such plan as, upon mature deliberation, should be deemed advisable, in conformity with the laws of the Union. The inquiry was particularly directed towards the possibility of some previous accessory step in relation to the militia, to expedite the calling them forth if an acceleration should be judged expedient and proper, and if any delay on the score of evidence should attend the notification from a judge, which the laws make the condition of the power of the President to require the aid of the militia, and turned more especially upon the point, whether the law of Pennsylvania of the 22d of September, 1783, was or was not still in force. The question emphatically was: Has the Executive of Pennsylvania power to put the militia in motion, previous to a requisition from the President, under the laws of the Union, if it shall be thought advisable so to do? Indeed, it seems to be admitted by one part of your letter, that the preliminary measure contemplated did turn on this question, and with a particular eye to the authority and existence of the act just mentioned.

3. The information contained in the papers read at the conference, besides the violence offer-

ed to the marshal, while in company with the inspector of the revenue, established that the marshal had been afterwards made prisoner by the insurgents, put in jeopardy of his life, had been obliged to obtain safety and liberty by a promise guaranteed by Colonel Presby Neville, that he would serve no other process on the west side of the Allegany mountain; that, in addition to this, a deputation of the insurgents had gone to Pittsburgh to demand of the marshal a surrender of the processes in his possession, under the intimation that it would satisfy the people and add to his safety; which necessarily implied that he would be in danger of further violence without such a surrender. That, under the influence of this menace, he had found it necessary to seek security by taking secretly, and in the night, a circuitous route.

This recapitulation is not made to invalidate the explanation offered in your last letter of the view of the subject, which you assert to have led to the suggestions contained in your first, and of the sense which you wish to be received as that of the observations accompanying those suggestions. It is intended solely to manifest that it was natural for the President to regard your communication of the 5th instant in the light under which it is presented in the reply to it.

For, having informed you that the matter was before an associate justice, with a view to the law of the United States which has been mentioned, and having pointed out what was said respecting a preliminary proceeding on your part to a call of the militia under the authority of a State law, by anticipation of a requisition from the General Government, and in co-operation with an eventual plan to be founded upon the laws of the Union, it was not natural to expect that you would have presented a plan of conduct entirely on the basis of the State Government, even to the extent of resorting to the Legislature of Pennsylvania, after its judiciary had proved incompetent "to prescribe by their wisdom and authority the means of subduing the spirit of insurrection, and of restoring tranquillity and order;" a plan which, being incompatible with the course marked out in the laws of the United States, evidently could not have been acceded to without a suspension, for a long and indefinite period, of the movements of the Federal Executive pursuant to those laws. The repugnancy and incompatibility of the two modes of proceeding at the same time cannot, it is presumed, be made a question.

Was it extraordinary, then, that the plan suggested should have been unexpected, and that it should even have been thought liable to the observation of having contemplated Pennsylvania in a light too separate and unconnected?

The propriety of the remark, "that it was impossible not to think that the current of the observations in your letter might be construed to imply a virtual disapprobation of that plan of conduct on the part of the General Government, in the actual stage of its affairs, which you acknowledged would be proper on the part of the Government of Pennsylvania, if arrived at a similar stage,"



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must be referred to the general tenor and complexion of those observations, and to the inference they were naturally calculated to inculcate. If this inference was, that under the known circumstances of the case, the employment of force to suppress the insurrection was improper, without a long train of preparatory expedients: and if, in fact, the Government of the United States (which has not been controverted) was at that point where it was admitted that the Government of Pennsylvania being arrived, a resort to force on its part would be proper, the impression which was made could not have been effaced by the consideration that the forms of referring what concerned the Government of the Union to the judgment of its own Executive were carefully observed. There was no difficulty in reconciling the intimation of an opinion unfavorable to a particular course of proceeding with an explicit reference of the subject (officially speaking) to the judgment of the officer charged by the Constitution to decide, and with a sincere recognition of the subjection of the individual authority of the State to the national jurisdiction of the Union.

The disavowal by your excellency of an intention to sanction the inference which was drawn, renders what has been said a mere explanation of the cause of that inference, and of the impression which it at first made.

It would be foreign to the object of this letter to discuss the various observations which have been adduced to obviate a misapprehension of your views, and to maintain the propriety of the course pursued in your first communication. It is far more pleasing to the President to understand you in the sense you desire, and to conclude that no opinion has been indicated by you inconsistent with that which he has entertained of the state of things and of his duty in relation to it. And he remarks, with satisfaction, the effect which subsequent information is supposed to be calculated to produce favoring an approximation of sentiment.

But there are a few miscellaneous points which, more effectually to prevent misconception any where, seem to demand a cursory notice.

You observe that the President had already determined to exercise his legal powers in draughting a competent force of the militia. At the point of time to which you are understood to refer, namely, that of the conference, the President had no legal power to call forth the militia. No judge had yet pronounced that a case justifying the exercise of that power existed. You must be sensible, sir, that all idea of your calling out the militia by your authority was referred to a state of things antecedent to the lawful capacity of the President to do it by his own authority; and when he had once determined upon the call, pursuant to his legal powers, it were absurd to have proposed to you a separate and unconnected call. How, too, it might be asked, could such a determination, if it had been made, and was known to you, have comported with the plan suggested in your letter, which pre-supposes that the employ-

ment of force had not already been determined upon? This passage of your letter is therefore construed to mean only that the President had manifested an opinion predicated upon the event of such a notification from a judge, as the law prescribes, that the nature of the case was such as would probably require the employment of force. You will also, it is believed, recollect that he had not at the time finally determined upon anything, and that the conference ended with referring the whole subject to further consideration.

You say that, if you had undertaken, not only to comply promptly with the President's requisition, but to embody a distinct corps for the same service, a useless expense would have been incurred by the State, an unnecessary burden would have been imposed on the citizens, and embarrassment and confusion would probably have been introduced instead of system and co-operation. But both were never expected. Your embodying the militia independent of a requisition from the President was never thought of, except as a preliminary and auxiliary step. Had it taken place when the requisition came, the corps embodied would have been ready towards a compliance with it, and no one of the inconveniences suggested could possibly have arisen.

You say in another place, that you "were called upon to act, not in conformity to a positive law, but in compliance with the duty which is supposed to result from the nature and constitution of the Executive office." It is conceived that it would have been more correct to have said, "you were called upon to be consulted whether you had power in the given case to call forth the militia without a previous requisition from the General Government." The supposition that you might possess this power was referred to a law of Pennsylvania, which appeared, on examination, to have been repealed. A gentleman who accompanied you thought that the power, after a due notification of the incompetency of the Judiciary, might be deduced from the nature and constitution of the Executive office.

It has appeared to your excellency fit and expedient to animadvert upon the nature of the evidence produced at the conference, and to express some doubts which had occurred to your mind concerning it.

As the laws of the United States have referred the evidence in such cases to the judgment of a district judge or associate justice, and, foreseeing that circumstances so peculiar might arise as to render rules relating to the ordinary and peaceable state of society inapplicable, have forborne to prescribe any, leaving it to the understanding and conscience of the judge, upon his responsibility, to pronounce what kind and degree of evidence should suffice, the President would not sanction a discussion of the standard or measure by which evidence in those cases ought to be governed. He would restrain himself by the reflection that this appertains to the province of another, and that he might rely as a guide upon the decision which should be made by the proper organ of the laws for that purpose.

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But it may be no deviation from this rule to notice to you that the facts stated in the beginning of this letter, under the third head, appear to have been overlooked in your survey of the evidence, while they seem to be far from immaterial to a just estimate of it.

You remark that, "when you found that the marshal had, without molestation, executed his office in the county of Fayette, that he never was insulted or opposed till he acted in company with General Neville, and that the virulence of the rioters was directly manifested against the person and property of the latter gentleman, and only incidentally against the person of the former, you thought there was ground yet to suppose that a spirit of opposition to the officers employed under the excise law, and not a spirit of opposition to the officers employed in the administration of justice, was the immediate source of the outrages which are deprecated."

It is natural to inquire how this supposition could consist with the additional facts which appeared by the same evidence, namely, that the marshal, having been afterwards made prisoner by the rioters, had been compelled, for obtaining safety and liberty, to promise to execute no more processes within the discontented scene; and that subsequently again to this, in consequence of a deputation of the rioters deliberately sent to demand a surrender of the processes in his possession, enforced by a threat, he had found it necessary to seek security in withdrawing by a secret and circuitous route. Did not these circumstances unequivocally denote that officers employed in the administration of justice were as much objects of opposition as those employed in the execution of the particular laws, and that the rioters were at least consistent in their plan?

It must needs be that these facts escaped your excellency's attention, else they are too material to have been omitted in your review of the evidence, and too conclusive not to have set aside the supposition which you entertained, and which seems to have had no great a share in your general view of the subject.

There remains only one point on which your excellency will be longer detained—a point, indeed, of great importance, and consequently demands serious and careful reflection. It is the opinion you so emphatically express, that the mere *dispersion* of the insurgents is the sole object for which the militia can be lawfully called out, or kept in service after they may have been called out.

The President reserves to the last moment the consideration and decision of this point.

But there are arguments weighing heavily against the opinion you have expressed, which, in the meantime, are offered to your candid consideration.

The Constitution of the United States (article 1, section 8) empowers Congress "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions;" evidently, from the wording and distribution of the sentence, contemplating the execution

of the laws of the Union as a thing distinct from the suppression of insurrections.

The act of May 2, 1792, for carrying this provision of the Constitution into effect, adopts for its title the very words of the Constitution, being "An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions"—continuing the constitutional distinction.

The first section of the act provides for the cases of invasion and of insurrection, confining the latter to the case of insurrection against the Government of a State. The second section provides for the case of the execution of the laws being obstructed by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals.

The words are these: "Whenever the laws of the United States shall be opposed, or the execution thereof obstructed in any State, by combinations too powerful to be suppressed by the ordinary course of judicial proceeding, or by the powers vested in the marshals by this act, the same being notified to the President of the United States by an associate justice or the district judge, it shall be lawful for the President of the United States to call forth the militia of such State to suppress such combinations, and to cause the laws to be duly executed." Then follows a provision for calling forth the militia of other States.

The terms of this section appear to contemplate and describe something that may be less than insurrection. "The combinations" mentioned may indeed amount to insurrections, but it is conceivable that they may stop at associations not to comply with the law, supported by riots, assassinations, and murders, and by a general spirit in a part of the community which may baffle the ordinary judiciary means, with no other aid than the *posse comitatus*, and may even require the stationing of military force, for a time, to awe the spirit of riot and countenance the magistrates and officers in the execution of their duty. And the objects for which the militia are to be called are expressly, not only to suppress these combinations, (whether amounting to insurrections or not,) but to cause the laws to be duly executed.

It is therefore plainly contrary to the manifest general intent of the Constitution and of this act, and to the positive and express terms of the second section of the act, to say that the militia called forth are not to be continued in service for the purpose of causing the laws to be duly executed, and, of course, till they are so executed.

What is the main and ultimate object of calling forth the militia? "To cause the laws to be executed." Which are the laws to be executed? Those which are opposed and obstructed in their execution by the combinations described in the present case—the laws laying duties upon spirits distilled within the United States, and upon stills; and, incidentally, those which uphold the judiciary functions. When are the laws executed? Clearly, when the opposition is subdued; when

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penalties for disobedience can be enforced; when a compliance is effectuated.

Would the mere dispersion of insurgents, and their retiring to their respective homes, do this? Would it satisfy either member of the provision—the suppression of the combinations or the execution of the laws? Might not the former, notwithstanding the dispersion, continue in full vigor, ready at any moment to break out into new acts of resistance to the laws? Are the militia to be kept perpetually marching and countermarching towards the insurgents while they are embodied, and from them when they have separated and retired? Suppose the insurgents hardy enough to wait the experiment of a battle, are vanquished, and then disperse and retire home, are the militia immediately to retire also, to give them an opportunity to reassemble, recruit, and prepare for another battle? And is this to go on and be repeated without limit?

Such a construction of the law, if true, were certainly a very unfortunate one, rendering its provisions essentially nugatory, and leading to endless expense, and as endless disappointment. It could hardly be advisable to vex the militia by marching them to a distant point, where they might scarcely be arrived before it would be legally necessary for them to return, not in consequence of having effected their object—of having “caused the laws to be executed”—but in consequence of the mere stratagem of a deceitful dispersion and retiring.

Thus far the spirit as well as the positive letter of the law combats the construction which you have adopted. It remains to see if there be any other part of it which compels to a renunciation both of the letter and spirit of the antecedent provisions.

The part which seems to be relied upon for this effect is the third section, which, by way of proviso, enjoins “that whenever it may be necessary, in the judgment of the President, to use the military force by that act directed to be called forth, he shall forthwith and previous thereto, by proclamation, command the insurgents to disperse and retire peaceably to their respective abodes, within a limited time.” But does this affirm, does it even necessarily imply, that the militia, after the dispersion and retiring, are not to be used for the purpose for which they are authorized to be called forth; that is, “to cause the laws to be duly executed; to countenance by their presence, and in case of further resistance, to protect and support, by their strength, the respective civil officers in the execution of their several duties, whether for bringing delinquents to punishment, or otherwise for giving effect to the laws? May not the injunction of this section be regarded as a merely humane and prudent precaution, to distinguish, previous to the actual application of force, a hasty tumult from a deliberate insurrection? To give an opportunity for those who may be accidentally or inadvertently mingled in a tumult or disorderly rising, to separate and withdraw from those who are designedly and deliberately actors? To prevent, if possible, bloodshed in a conflict of

arms; and, if this cannot be done, to render the necessity of it palpable, by a premonition to the insurgents to disperse and go home? And are not all these objects compatible with the further employment of the militia for the ulterior purpose of causing the laws to be executed in the way which has been mentioned? If they present a rational end for the proviso, without defeating the main design of the antecedent provision, it is clear they ought to limit the sense of the former, and exclude a construction which must make the principal provision nugatory.

Do not the rules of law and reason unite in declaring that the different parts of a statute shall be so construed as, if possible, to consist with each other; that a *proviso* ought not to be understood or allowed to operate in a sense tending to defeat the principal clause; and that an implication (if, indeed, there be any such implication as is supposed in the present case) ought not to overrule an express provision, especially at the sacrifice of the manifest general intent of a law, which, in the present case, undoubtedly is, that the militia shall be called forth “to cause the laws to be duly executed?”

Though not very material to the merit of the argument, it may be remarked that the proviso which forms the third section contemplates merely the case of insurrection. If the combinations described in the second section may be less than insurrection, then the proviso is not commensurate with the whole case contained in the second section, which would be an additional circumstance to prove that it cannot work an effect which shall be a substitute for the main purpose of the first section.

I have the honor to be, with perfect respect,  
sir, your excellency's most obedient servant,

EDM. RANDOLPH.

His Excellency Governor MIFFLIN.

TREASURY DEPARTMENT,  
August 5, 1794.

SIR: The disagreeable crisis at which matters have lately arrived in some of the western counties of Pennsylvania, with regard to the laws laying duties on spirits distilled within the United States, and on stills, seems to render proper a review of the circumstances which have attended those laws in that scene, from their commencement to the present time, and of the conduct which has hitherto been observed on the part of the Government, its motives and effect, in order to a better judgment of the measures necessary to be pursued in the existing emergency.

The opposition to those laws in the four most western counties of Pennsylvania. (Alleghany, Washington, Fayette, and Westmoreland,) commenced as early as they were known to have been passed. It has continued, with different degrees of violence, in the different counties and at different periods; but Washington has uniformly distinguished its resistance by a more excessive spirit than has appeared in the other counties, and

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seems to have been chiefly instrumental in kindling and keeping alive the flame.

The opposition first manifested itself in the milder shape of the circulation of opinions unfavorable to the law, and calculated, by the influence of public disesteem, to discourage the accepting or holding of offices under it, or the complying with it by those who might be so disposed; to which was added a show of the discontinuance of the business of distilling.

These expedients were shortly after succeeded by private associations to forbear compliances with the law. But it was not long before these mere negative modes of opposition were perceived to be likely to prove ineffectual. And in proportion as this was the case, and as the means of introducing the laws into operation were put into execution, the disposition to resistance became more turbulent, and more inclined to adopt and practise violent expedients; the officers now began to experience marks of contempt and insult; threats against them became more frequent and loud; and, after some time, these threats were ripened into acts of ill-treatment and outrage.

These acts of violence were preceded by certain meetings of malcontent persons, who entered into resolutions calculated at once to confirm, inflame, and systematize the spirit of opposition.

The first of these meetings was held at a place called Redstone, (Old Fort,) on the 27th of July, 1791, where it was concerted that county committees should be convened in the four counties, at the respective seats of justice therein. On the 23d of August following, one of these committees assembled in the county of Washington.

This meeting passed some intemperate resolutions, which were afterwards printed in the *Pittsburg Gazette*, containing a strong censure on the law, declaring that any person who had accepted or might accept an office under Congress, in order to carry it into effect, should be considered as inimical to the interests of the country; and recommending to the citizens of Washington county to treat every person who had accepted, or might hereafter accept, any such office, with contempt, and absolutely to refuse all kind of communication or intercourse with the officers, and to withhold from them all aid, support, or comfort.

Not content with this vindictive proscription of those who might esteem it their duty, in the capacity of officers, to aid in the execution of the constitutional laws of the land, the meeting proceeded to accumulate topics of crimination of the Government, though foreign to each other; authorizing by this zeal for censure a suspicion that they were actuated not merely by the dislike of a particular law, but by a disposition to render the Government itself unpopular and odious.

This meeting, in further prosecution of their plan, deputed three of their members to meet delegates from the counties of Westmoreland, Fayette, and Alleghany, on the first Tuesday of September following, for the purpose of expressing the sense of the people of those counties in an address to the Legislature of the United States upon the subject of the excise law and other grievances.

Another meeting accordingly took place on the 7th of September, 1791, at Pittsburg, in the county of Alleghany, at which there appeared persons in character of delegates from the four western counties.

This meeting entered into resolutions more comprehensive in their objects, and not less inflammatory in their tendency, than those which had before passed the meeting in Washington. Their resolutions contained severe censures not only on the law which was the immediate subject of objection, but upon what they termed the exorbitant salaries of officers; the unreasonable interest of the public debt; the want of discrimination between original holders and transferees, and the institution of a national bank. The same unfriendly temper towards the Government of the United States, which seemed to have led out of their way the meeting at Washington, appears to have produced a similar wandering in that at Pittsburg.

A representation to Congress, and a remonstrance to the Legislature of Pennsylvania, against the law more particularly complained of, were prepared by this meeting, published, together with their other proceedings, in the *Pittsburg Gazette*, and afterwards presented to the respective bodies to whom they were addressed.

These meetings, composed of very influential individuals, and conducted without moderation or prudence, are justly chargeable with the excesses which have been from time to time committed; serving to give consistency to an opposition which has at length matured to a point that threatens the foundations of the Government and of the Union, unless speedily and effectually subdued.

On the 6th of the same month of September, the opposition broke out in an act of violence upon the person and property of Robert Johnson, collector of the revenue for the counties of Alleghany and Washington.

A party of men, armed and disguised, waylaid him at a place on Pigeon creek, in Washington county, seized, tarred and feathered him, cut off his hair, and deprived him of his horse, obliging him to travel on foot a considerable distance in that mortifying and painful situation.

The case was brought before the District Court of Pennsylvania, out of which processes issued against John Robertson, John Hamilton, and Thomas McComb, three of the persons concerned in the outrage.

The serving of these processes was confided by the then marshal, Clement Biddle, to his deputy, Joseph Fox, who, in the month of October, went into Alleghany county for the purpose of serving them.

The appearances and circumstances which Mr. Fox observed himself in the course of his journey, and learned afterwards upon his arrival at Pittsburg, had the effect of deterring him from the service of the processes, and unfortunately led him to adopt the injudicious and fruitless expedient of sending them to the parties by a private messenger, under cover.

The deputy's report to the marshal states a

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number of particulars, evincing a considerable fermentation in the part of the country to which he was sent, and inducing a belief, on his part, that he could not with safety have executed the processes. The marshal, transmitting this report to the district attorney, makes the following observations upon it: "I am sorry to add that he (the deputy) found the people, in general, in the western part of the State, and particularly beyond the Allegany mountains, in such a ferment on account of the act of Congress for laying a duty on distilled spirits, and so much opposed to the execution of the said act, and from a variety of threats to himself personally, (although he took the utmost precaution to conceal his errand,) that he was not only convinced of the impossibility of serving the process, but that any attempt to effect it would have occasioned the most violent opposition from the greater part of the inhabitants; and he declares that, if he had attempted it, he believes he should not have returned alive.

"I spared no expense or pains to have the process of the court executed, and have not the least doubt that my deputy would have accomplished it, if it could have been done."

The reality of the danger to the deputy was countenanced by the opinion of General Neville, the inspector of the revenue, and a man who before had given, and since has given, numerous proofs of a steady and firm temper; and what followed is a further confirmation of it.

The person who had been sent with the processes was seized, whipped, tarred, and feathered; and, after having his money and horse taken from him, was blindfolded and tied in the woods; in which condition he remained for five hours.

Very serious reflections naturally occurred upon this occasion. It seemed highly probable, from the issue of the experiment which had been made, that the ordinary course of civil process would be ineffectual for enforcing the execution of the law in the scene in question, and that a perseverance in this course might lead to a serious concussion. The law itself was still in the infancy of its operation, and far from established in other important portions of the Union. Prejudices against it had been industriously disseminated, misrepresentations diffused, misconceptions fostered. The Legislature of the United States had not yet organized the means by which the Executive could come in aid of the Judiciary, when found incompetent to the execution of the laws. If neither of these impediments to a decisive exertion had existed, it was desirable, especially in a Republican Government, to avoid what is in such cases the ultimate resort, till all the milder means had been tried without success.

Under the united influence of these considerations, it appeared advisable to forbear urging coercive measures until the laws had gone into more extensive operation; till further time for reflection and experience of its operation had served to correct false impressions, and inspired greater moderation; and until the Legislature had had an opportunity, by a revision of the law, to remove

as far as possible objections, and to reinforce the provisions for securing its execution.

Other incidents occurred, from time to time, which are further proofs of the very improper temper that prevailed among the inhabitants of the refractory counties.

Mr. Johnson was not the only officer who, about the same period, experienced outrage. Mr. Wells, collector of the revenue for Westmoreland and Fayette, was also ill-treated at Greensburg and Uniontown. Nor were the outrages perpetrated confined to the officers; they extended to private citizens, who only dared to show their respect for the laws of their country.

Some time in October, 1791, an unhappy man, of the name of Wilson, a stranger in the county, and manifestly disordered in his intellects, imagining himself to be a collector of the revenue, or invested with some trust in relation to it, was so unlucky as to make inquiries concerning distillers who had entered their stills, giving out that he was to travel through the United States to ascertain and report to Congress the number of stills, &c. This man was pursued by a party in disguise, taken out of his bed, carried about five miles back to a smith's shop, stripped of his clothes, which were afterwards burnt, and, having been himself inhumanly burnt in several places with a heated iron, was tarred and feathered, and about day-light dismissed, naked, wounded, and otherwise in a very suffering condition. These particulars are communicated in a letter from the inspector of the revenue of the 17th of November, who declares that he had then himself seen the unfortunate maniac, the abuse of whom, as he expresses it, exceeded description, and was sufficient to make human nature shudder. The affair is the more extraordinary, as persons of weight and consideration in that county are understood to have been actors in it, and as the symptoms of insanity were, during the whole time of inflicting the punishment, apparent; the unhappy sufferer displaying the heroic fortitude of a man who conceived himself to be a martyr to the discharge of some important duty.

Not long after, a person of the name of Roseberry underwent the humiliating punishment of tarring and feathering, with some aggravations, for having in conversation hazarded the very natural and just, but unpalatable remark, that the inhabitants of that county could not reasonably expect protection from a Government whose laws they so strenuously opposed.

The audacity of the perpetrators of these excesses was so great, that an armed banditti ventured to seize and carry off two persons who were witnesses against the rioters in the case of Wilson, in order to prevent their giving testimony of the riot to a court then sitting, or about to sit.

Designs of personal violence against the inspector of the revenue himself, to force him to a resignation, were repeatedly attempted to be put in execution by armed parties, but, by different circumstances, were frustrated.

In the session of Congress which commenced in October, 1791, the law laying a duty on distill-

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ed spirits and stills came under the revision of Congress, as had been anticipated. By an act passed May 8, 1792, during that session, material alterations were made in it; among these, the duty was reduced to a rate so moderate as to have silenced complaint on that head; and a new and very favorable alternative was given to the distiller—that of paying a monthly instead of a yearly rate, according to the capacity of his still, with liberty to take a license for the precise term which he should intend to work it, and to renew that license for a further term or terms.

This amending act, in its progress through the Legislature, engaged the particular attention of members, who themselves were interested in distilleries, and of others who represented parts of the country in which the business of distilling was extensively carried on.

Objections were well considered, and great pains taken to obviate all such as had the semblance of reasonableness.

The effect has, in a great measure, corresponded with the views of the Legislature. Opposition has subsided in several districts where it before prevailed, and it was natural to entertain, and not easy to abandon a hope, that the same thing would by degrees have taken place in the four western counties of this State.

But notwithstanding some flattering appearances at particular junctures, and infinite pains, by various expedients, to produce the desirable issue, the hope entertained has never been realized, and is now at an end, as far as the ordinary means of executing laws are concerned.

The first law had left the number and positions of the offices of inspection, which were to be established in each district for receiving entries of stills, to the discretion of the supervisor. The second, to secure a due accommodation to distillers, provides, peremptorily, that there shall be one in each county.

The idea was immediately embraced that it was a very important point in the scheme of opposition to the law, to prevent the establishment of offices in the respective counties.

For this purpose, the intimidation of well-disposed inhabitants was added to the plan of molesting and obstructing the officers, by force or otherwise, as might be necessary. So effectually was the first point carried, (the certain destruction of property and the peril of life being involved,) that it became almost impracticable to obtain suitable places for offices in some of the counties; and, when obtained, it was found a matter of necessity, in almost every instance, to abandon them.

After much effort, the inspector of revenue succeeded in procuring the house of William Faulkner, a Captain in the Army, for an office of inspection in the county of Washington. This took place in August, 1792. The office was attended by the inspector of the revenue in person, till prevented by the following incidents:

Captain Faulkner, being in pursuit of some deserters from the troops, was encountered by a number of people, in the same neighborhood where Mr. Johnson had been ill-treated the preceding

year, who reproached him with letting his house for an office of inspection, drew a knife upon him, threatened to scalp him, tar and feather him, and reduce his house and property to ashes, if he did not solemnly promise to prevent the further use of his house for an office. Captain Faulkner was induced to make the promise exacted; and, in consequence of the circumstance, wrote a letter to the inspector, dated the 20th of August, countermanding the permission for using his house, and the day following gave a public notice in the *Pittsburg Gazette* that the office of inspector should be no longer kept there.

At the same time another engine of opposition was in operation. Agreeable to a previous notification, there met at Pittsburg, on the 21st of August, a number of persons, styling themselves "A meeting of sundry inhabitants of the western counties of Pennsylvania."

This meeting entered into resolutions not less exceptionable than those of its predecessors. The preamble suggests that a tax on spirituous liquors is unjust in itself and oppressive upon the poor; that internal taxes upon consumption must, in the end, destroy the liberties of every country in which they are introduced; that the law in question, from certain local circumstances, which are specified, would bring immediate distress and ruin upon the western country; and concludes with the sentiment, that they think it their duty to persist in remonstrances to Congress, and in every other legal measure that may obstruct the operation of the law.

The resolutions then proceed, first, to appoint a committee to prepare and cause to be presented to Congress an address stating objections to the law, and praying for its repeal; secondly, to appoint committees of correspondence for Washington, Fayette, and Allegany, charged to correspond together, and with such committees as should be appointed for the same purpose in the county of Westmoreland, or with any committees of a similar nature that might be appointed in other parts of the United States; and, also, if found necessary, to call together either general meetings of the people in their respective counties, or conferences of the several committees; and lastly, to declare that they will in future consider those who hold offices for the collection of the duty as unworthy of their friendship; that they will have no intercourse nor dealings with them, will withdraw from them every assistance, withhold all the comforts of life which depend upon those duties that as men and fellow-citizens we owe to each other, and will, upon all occasions, treat them with contempt; earnestly recommending it to the people at large to follow the same line of conduct towards them.

The idea of pursuing legal measures to obstruct the operation of a law needs little comment. Legal measures may be pursued to procure the repeal of a law, but to obstruct its operation presents a contradiction in terms. The operation (or, what is the same thing, the execution) of a law cannot be obstructed after it has been constitutionally enacted, without illegality and crime. The ex-



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pression quoted is one of those phrases which can only be used to conceal a disorderly and culpable intention under forms that may escape the hold of the law.

Neither was it difficult to perceive that the anathema pronounced against the officers of the revenue placed them in a state of virtual outlawry, and operated as a signal to all those who were bold enough to encounter the guilt, and the danger to violate both their lives and their properties.

The foregoing proceedings, as soon as known, were reported by the Secretary of the Treasury to the President. The President, on the 15th of September, 1792, issued a proclamation "earnestly admonishing and exhorting all persons whom it might concern to refrain and desist from all unlawful combinations and proceedings whatsoever, having for object, or tending, to obstruct the operation of the laws aforesaid, inasmuch as all lawful ways and means would be put in execution for bringing to justice the infractors thereof, and securing obedience thereto;" and, moreover, charging and requiring all courts, magistrates, and officers, whom it might concern, according to the duties of their several offices, to exert the powers in them respectively vested by law for the purposes aforesaid; thereby, also, enjoining and requiring all persons whomsoever, as they tendered the welfare of their country, the just and due authority of Government, and the preservation of the public peace, to be aiding and assisting therein, according to law; and likewise directed that prosecutions might be instituted against the offenders, in the cases in which the laws would support, and the requisite evidence could be obtained.

Pursuant to these instructions, the Attorney General, in co-operation with the attorney of the district, attended a circuit court, which was holden at Yorktown, in October, 1792, for the purpose of bringing forward prosecutions in the proper cases.

Collateral measures were taken to procure for this purpose the necessary evidence.

The supervisor of the revenue was sent into the opposing survey, to ascertain the real state of that survey, to obtain evidence of the persons who were concerned in the riot in Faulkner's case, and of those who composed the meeting at Pittsburg, to uphold the confidence and encourage the perseverance of the officers acting under the law; and to induce, if possible, the inhabitants of that part of the survey, which appeared least disinclined to come voluntarily into the law, by arguments addressed to their sense of duty, and exhibiting the eventual dangers and mischiefs of resistance.

The mission of the supervisor had no other fruit than that of obtaining evidence of the persons who composed the meeting at Pittsburg, and of two who were understood to be concerned in the riot; and a confirmation of the enmity which certain active and designing leaders had industriously infused into a large proportion of the inhabitants, not against the particular laws in ques-

tion only, but of a more ancient date, against the Government of the United States itself.

The then Attorney General being of opinion that it was at best a doubtful point, whether the proceedings of the meeting at Pittsburg contained indictable matter, no prosecution was attempted against those who composed it; though, if the ground for proceeding against them had appeared to be firm, it is presumed that the truest policy would have dictated that course.

Indictments were preferred to the circuit court, and found against the two persons understood to have been concerned in the riot; and the usual measures were taken for carrying them into effect. But it appearing afterwards, from various representations supported by satisfactory testimony, that there had been some mistake as to the persons accused, justice and policy demanded that the prosecution should be discontinued, which was accordingly done. This issue of the business unavoidably defeated the attempt to establish examples of the punishment of persons who engaged in a violent resistance to the laws, and left the officers to struggle against the stream of resistance, without the advantage of such examples.

The following plan, afterwards successively put in execution, was about this time digested, for carrying, if possible, the laws into effect, without the necessity of recurring to force:

1. To prosecute delinquents in the cases in which it could be clearly done for non-compliance with the laws.
2. To intercept the markets for the surplus produce of the distilleries of the non-complying counties, by seizing the spirits in their way to those markets, in places where it could be effected without opposition.
3. By purchases, through agents, for the use of the army, (instead of deriving the supply through contractors, as formerly,) confining them to spirits in respect to which there had been a compliance with the laws.

The motives to this plan speak for themselves. It aimed, besides the influence of penalties on delinquents, at making it the general interest of the distillers to comply with the laws, by interrupting the market for a very considerable surplus, and by, at the same time, confining the benefit of the large demand for public service to those who did their duty to the public; and furnishing, through the means of payments in cash, that medium for paying the duties, the want of which was alleged to be a great difficulty in the way of compliance.

But two circumstances conspired to counteract the success of the plan; one, the necessity, towards incurring the penalties of non-compliance, of there being an office of inspection in each county, which was prevented in some of the counties by means of the intimidation practised for that purpose; another, the non-extension of the law to the territory northwest of the Ohio, into which a large proportion of the surplus before mentioned was sent.

A cure for these defects could only come from the Legislature; accordingly, in the session which began in November, 1792, measures were taken

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for procuring a further revision of the laws. A bill containing amendments of those and other defects was brought in; but it so happened that this object, by reason of more urgent business, was deferred till towards the close of the session, and finally went off, through the usual hurry of that period.

The continuance of the embarrassment incident to this state of things naturally tended to diminish much of the efficacy of the plan which had been devised; yet it was resolved, as far as legal provisions would bear out the officers, to pursue it with perseverance. There was ground to entertain hopes of its good effect, and it was certainly the most likely course which could have been adopted towards attaining the object of the laws by means short of force; evincing, unequivocally, the sincere disposition to avoid this painful resort, and the steady moderation which has characterized the measures of the Government.

In pursuance of this plan, prosecutions were occasionally instituted in the mildest forms; seizures were made as opportunities occurred; and purchases on public account were carried on. It may be incidentally remarked, that these purchases were extended to other places, where, though the same disorders did not exist, it appeared advisable to facilitate the payment of the duties by this species of accommodation. Nor was this plan, notwithstanding the deficiency of legal provision, which impeded its full execution, without corresponding effects. Symptoms from time to time appeared, which authorized expectation that, with the aid, at another session, of the desired supplementary provisions, it was capable of accomplishing its end, if no extraordinary events occurred.

The opponents of the laws, not insensible of the tendency of that plan, nor of the defects in the laws which interfered with it, did not fail, from time to time, to pursue analogous modes of counteraction. The effort to frustrate the establishment of officers of inspection in particular was persisted in, and even increased; means of intimidating officers and others, continued to be exerted.

In April, 1793, a party of armed men in disguise made an attack in the night upon the house of a collector of the revenue, who resided in Fayette county; but he happening to be from home, they contented themselves with breaking open his house, threatening, terrifying, and abusing his family. Warrants were issued for apprehending some of the rioters upon this occasion by Isaac Mason and James Findley, assistant judges of Fayette county, which were delivered to the sheriff of that county, who, it seems, refused to execute them; for which he has since been indicted. This is at once an example of a disposition to support the laws of the Union, and of an opposite one in the local officers of Pennsylvania within the non-complying scene. But it is a truth too important not to be noticed, and too injurious not to be lamented, that the prevailing spirit of those officers has been either hostile or lukewarm to

the execution of those laws; and that the weight of an unfriendly official influence has been one of the most serious obstacles with which they have had to struggle.

In June following, the inspector of the revenue was burnt in effigy in Allegany county, at a place and on a day of some public election, with much display, in the presence of, and without interruption from, magistrates and other public officers.

On the night of the 22d of November, another party of men, some of them armed, and all in disguise, went to the house of the same collector of Fayette, which had been visited in April, broke and entered it, and demanded a surrender of the officer's commission and official books; upon his refusing to deliver them up, they presented pistols at him, and swore that if he did not comply they would instantly put him to death. At length a surrender of the commission and books was enforced; but, not content with this, the rioters, before they departed, required of the officer that he should, within two weeks, publish his resignation, on pain of another visit, and the destruction of his house.

Notwithstanding these excesses, the laws appeared, during the latter periods of this year, (1793) to be rather gaining ground. Several principal distillers, who had formerly held out, complied; and others discovered a disposition to comply, which was only restrained by the fear of violence. But these favorable circumstances served to beget alarm among those who were determined, at all events, to prevent the quiet establishment of the laws. It soon appeared that they meditated, by fresh and greater excesses, to aim a still more effectual blow at them, to subdue the growing spirit of compliance, and to destroy entirely the organs of the laws within that part of the country, by compelling all the officers to renounce their offices.

The last proceeding, in the case of the collector of Fayette, was in this spirit. In January of the present year, further violences appear to have been perpetrated. William Richmond, who had given information against some of the rioters, in the affair of Wilson, had his barn burnt, with all the grain and hay which it contained; and the same thing happened to Robert Shawhan, a distiller, who had been among the first to comply with the law, and who had always spoken favorably of it; but in neither of these instances, (which happened in the county of Allegany) though the presumptions were violent, was any positive proof obtained.

The inspector of the revenue, in a letter of the 27th of February, writes that he had received information that persons, living near the dividing line of Allegany and Washington, had thrown out threats of tarring and feathering one William Cochran, a complying distiller, and of burning his distillery; and that it had also been given out that in three weeks there would not be a house standing in Allegany county of any person who had complied with the laws; in consequence of which, he had been induced to pay a visit to several leading individuals in that quarter, as well to

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ascertain the truth of the information as to endeavor to avert the attempt to execute such threats. It appeared afterwards, that on his return home, he had been pursued by a collection of disorderly persons, threatening, as they went along, vengeance against him. On their way, these men called at the house of James Kiddoe, who had recently complied with the laws, broke into his still-house, fired several balls under his still, and scattered fire over and about the house.

Letters from the inspector, in March, announce an increased activity in promoting opposition to the laws; frequent meetings to cement and extend the combinations against it; and among other means for this purpose, a plan of collecting a force to seize him, compel him to resign his commission, and detain him prisoner—probably as a hostage.

In May and June new violences were committed. James Kiddoe, the person above mentioned, and William Cochran, another complying distiller, met with repeated injury to their property. Kiddoe had parts of his grist-mill at different times carried away; and Cochran suffered more material injuries. His still was destroyed; his saw-mill was rendered useless, by the taking away of the saw, and his grist-mill so injured as to require to be repaired at considerable expense.

At the last visit a note in writing was left, requiring him to publish what he had suffered in the *Pittsburg Gazette*, on pain of another visit, in which he is threatened, in figurative but intelligible terms, with the destruction of his property by fire—thus adding to the profligacy of doing wanton injuries to a fellow-citizen the tyranny of compelling him to be the publisher of his wrongs.

June being the month for receiving annual entries of stills, endeavors were used to open offices in Westmoreland and Washington, where it had been hitherto found impracticable. With much pains and difficulty, places were procured for the purpose. That in Westmoreland was repeatedly attacked in the night by armed men, who frequently fired upon it; but, according to a report which has been made to this Department, it was defended with so much courage and perseverance by John Wells, an auxiliary officer, and Philip Ragan, the owner of the house, as to have been maintained during the remainder of the month.

That in Washington, after repeated attempts, was suppressed. The first attempt was confined to pulling down the sign of the office, and threats of future destruction. The second effected the object in the following mode: About twelve persons, armed and painted black, in the night of the 6th of June, broke into the house of John Lynn, where the office was kept, and, after having treacherously seduced him to come down stairs, and put himself in their power, by a promise of safety to himself and his house, they seized and tied him—threatened to hang him—took him to a retired spot in the neighboring wood, and there, after cutting off his hair, tarred and feathered him—swore him

never again to allow the use of his house for an office—never to disclose their names, and never again to have any sort of agency in aid of the excise. Having done which, they bound him naked to a tree, and left him in that situation till morning, when he succeeded in extricating himself. Not content with this, the malcontents some days after made him another visit—pulled down part of his house, and put him in a situation to be obliged to become an exile from his own home, and to find an asylum elsewhere.

During this time, several of the distillers, who had made entries and benefitted by them, refused the payment of the duties—actuated, no doubt, by various motives.

Indications of a plan to proceed against the inspector of the revenue, in the manner which has been before mentioned, continued. In a letter from him of the 10th of July, he observed that the threatened visit had not yet been made, though he had still reason to expect it.

In the session of Congress which began in December, 1793, a bill for making the amendments in the laws, which had been for some time desired, was brought in, and on the 5th of June last became a law.

It is not to be doubted that the different stages of this business were regularly notified to the malcontents, and that a conviction of the tendency of the amendments contemplated to effectuate the execution of the law had matured the resolution to bring matters to a violent crisis.

The increasing energy of the opposition rendered it indispensable to meet the evil with proportionable decision. The idea of giving time for the law to extend itself, in scenes where the dissatisfaction with it was the effect, not of an improper spirit, but of causes which were of a nature to yield to reason, reflection, and experience, (which had constantly weighed in the estimate of the measures proper to be pursued,) had had its effect in an extensive degree. The experiment, too, had been long enough tried to ascertain that, where resistance continued, the root of the evil lay deep, and required measures of greater efficacy than had been pursued. The laws had undergone repeated revisions of the Legislative Representatives of the Union, and had virtually received their repeated sanction, without even an attempt, as far as is now recollected or can be traced, to effect their repeal—affording an evidence of the general sense of the community in their favor. Complaints began to be loud, from complying quarters, against the impropriety and injustice of suffering the laws to remain unexecuted in others.

Under the united influence of these considerations, there was no choice but to try the efficiency of the laws in prosecuting with vigor delinquents and offenders.

Process issued against a number of non-complying distillers in the counties of Fayette and Alleghany; and indictments having been found at a circuit court holden at Philadelphia in July last, against Robert Smilie and John McCulloch, two of the rioters in the attack which, in November preceding, had been made upon the house of a

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collector of the revenue in Fayette county; processes issued against them also, to bring them to trial, and, if guilty, to punishment.

The marshal of the district went in person to serve these processes. He executed his trust without interruption, though under many discouraging circumstances, in Fayette county; but while he was in the execution of it in Allegany county, (being then accompanied by the inspector of the revenue—to wit, on the 15th of July last,) he was beset on the road by a party of from thirty to forty armed men, who, after much previous irregularity of conduct, finally fired upon him, but, as it happened, without injury either to him or to the inspector.

This attempt on the marshal was but the prelude of greater excesses.

About break of day the 16th of July, in conformity with a plan which seems to have been for some time entertained, and which probably was only accelerated by the coming of the marshal into the survey, an attack by about one hundred persons armed with guns and other weapons was made upon the house of the inspector, in the vicinity of Pittsburg. The inspector, though alone, vigorously defended himself against the assailants, and obliged them to retreat without accomplishing their purpose.

Apprehending that the business would not terminate here, he made application by letter to the judges, generals of militia, and sheriff of the county, for protection. A reply to his application, from John Wilkins, jr., and John Gibson, magistrates and militia officers, informed him that the laws could not be executed, so as to afford him the protection to which he was entitled, owing to the too general combination of the people in that part of Pennsylvania to oppose the revenue law—adding that they would take every step in their power to bring the rioters to justice, and would be glad to receive information of the individuals concerned in the attack upon his house, that prosecutions might be commenced against them; and expressing their sorrow, that, should the *posse comitatus* of the county be ordered out in support of the civil authority, very few could be gotten who were not of the party of the rioters.

The day following, the insurgents reassembled with a considerable augmentation of numbers, amounting, as has been computed, to at least five hundred; and, on the 17th of July, renewed their attack upon the house of the inspector, who, in the interval, had taken the precaution of calling to his aid a small detachment from the garrison of Fort Pitt, which, at the time of the attack, consisted of eleven men, who had been joined by Major Abraham Kirkpatrick, a friend and connexion of the inspector.

There being scarcely a prospect of effectual defence against so large a body as then appeared, and as the inspector had everything to apprehend for his person, if taken, it was judged advisable that he should withdraw from the house to a place of concealment—Major Kirkpatrick generously agreeing to remain with the eleven men, in the intention, if practicable, to make a capitulation in

favor of the property; if not, to defend it as long as possible.

A parley took place under cover of a flag, which was sent by the insurgents to the house to demand that the inspector should come forth, renounce his office, and stipulate never again to accept an office under the same laws. To this it was replied that the inspector had left the house upon their first approach, and that the place to which he had retired was unknown. They then declared that they must have whatever related to his office. They were answered that they might send persons, not exceeding six, to search the house, and take away whatever papers they could find appertaining to the office. But not satisfied with this, they insisted, unconditionally, that the armed men who were in the house, for its defence, should march out and ground their arms, which Major Kirkpatrick peremptorily refused—considering it and representing it to them as a proof of a design to destroy the property. This refusal put an end to the parley.

A brisk firing then ensued between the insurgents and those in the house, which, it is said, lasted for near an hour, till the assailants, having set fire to the neighboring and adjacent buildings, eight in number, the intenseness of the heat, and the danger of an immediate communication of the fire to the house, obliged Major Kirkpatrick and his small party to come out and surrender themselves. In the course of the firing one of the insurgents was killed and several wounded, and three of the persons in the house were also wounded. The person killed is understood to have been the leader of the party, of the name of James McFarlane, then a major in the militia—formerly a lieutenant in the Pennsylvania line. The dwelling-house, after the surrender, shared the fate of the other buildings, the whole of which were consumed to the ground. The loss of property to the inspector upon this occasion is estimated (and as it is believed with great moderation) at not less than three thousand pounds.

The marshal, Colonel Presley Neville, and several others were taken by the insurgents going to the inspector's house. All except the marshal and Colonel Neville soon made their escape; but these were carried off some distance from the place where the affray had happened, and detained till one or two o'clock the next morning. In the course of their detention, the marshal in particular suffered very severe and humiliating treatment, and was frequently in imminent danger of his life. Several of the party repeatedly presented their pieces at him, with every appearance of a design to assassinate, from which they were with difficulty restrained by the efforts of a few more humane and more prudent.

Nor could he obtain safety or liberty, but upon the condition of a promise, guarantied by Colonel Neville, that he would serve no other process on the west side of the Allegany mountain. The alternative being immediate death, extorted from the marshal a compliance with this condition, notwithstanding the just sense of official dignity, and the firmness of character which were witnessed by

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his conduct throughout the trying scenes he had experienced.

The insurgents, on the 18th, sent a deputation of two of their number (one a justice of the peace) to Pittsburg, to require of the marshal a surrender of the processes in his possession, intimating that his compliance would satisfy the people, and add to his safety; and also to demand of General Neville, in peremptory terms, the resignation of his office, threatening, in case of refusal, to attack the place and take him by force—demands which both these officers did not hesitate to reject, as alike incompatible with their honor and their duty.

As it was well ascertained that no protection was to be expected from the magistrates or inhabitants of Pittsburg, it became necessary to the safety both of the inspector and marshal to quit that place; and as it was known that all the usual routes to Philadelphia were beset by the insurgents, they concluded to descend the Ohio, and proceed by a circuitous route to the Seat of Government—which they began to put in execution on the night of the 19th of July.

Information has also been received of a meeting of a considerable number of persons at a place called Mingo-creek Meeting-house, in the county of Washington, to consult about the further measures which it might be advisable to pursue; that, at this meeting, a motion was made to approve and agree to support the proceedings which had taken place until the excise law was repealed, and an act of oblivion passed. But, that, instead of this, it had been agreed that the four western counties of Pennsylvania and the neighboring counties of Virginia should be invited to meet in a convention of delegates on the 14th of the present month, at Parkinson's on Mingo creek, in the county of Washington, to take into consideration the situation of the Western country, and concert such measures as should appear suited to the occasion.

It appears, moreover, that on the 25th of July last the mail of the United States, on the road from Pittsburg to Philadelphia, was stopped by two armed men who cut it open and took out all the letters, except those contained in one packet. These armed men, from all the circumstances which occurred, were manifestly acting on the part of the insurgents.

The declared object of the foregoing proceedings is to obstruct the execution and compel a repeal of the laws laying duties on spirits distilled within the United States, and upon stills. There is just cause to believe that this is connected with an indisposition, too general in that quarter, to share in the common burdens of the community, and with a wish among some persons of influence to embarrass the Government: It is affirmed by well-informed persons to be a fact of notoriety, that the revenue laws of the State itself have always been either resisted or very defectively complied with in the same quarter.

With the most perfect respect, I have the honor to be, sir, your most obedient and humble servant,  
ALEXANDER HAMILTON.

*The President of the United States.*

BEDFORD, October 20, 1794.

SIR: I have it in special instruction from the President of the United States, now at this place, to convey to you, on his behalf, the following instructions for the general direction of your conduct in the command of the militia army with which you are charged:

The objects for which the militia have been called forth are—

1. To suppress the combinations which exist in some of the western counties of Pennsylvania in opposition to the laws laying duties upon spirits distilled within the United States, and upon stills.

2. To cause the laws to be executed.

These objects are to be effected in two ways—

1. By military force;

2. By judiciary process, and other civil proceedings.

The objects of the military force are two-fold—

1. To overcome any opposition which may exist;

2. To countenance and support the civil officers in the means of executing the laws.

With a view to the first of these two objects, you will proceed as speedily as may be with the army under your command into the insurgent counties to attack, and as far as shall be in your power subdue, all persons whom you may find in arms in opposition to the laws above-mentioned. You will march your army in two columns from the places where they are now assembled by the most convenient routes, having regard to the nature of the roads, the convenience of supply, and the facility of co-operation and union; and bearing in mind that you ought to act till the contrary shall be fully developed, on the general principle of having to contend with the whole force of the counties of Fayette, Westmoreland, Washington, and Allegany, and of that part of Bedford which lies west of the town of Bedford: and that you are to put as little as possible to hazard. The approximation therefore of your columns is to be sought, and the subdivision of them, so as to place the parts out of mutual supporting distance, to be avoided as far as local circumstances will permit. Parkinson's Ferry appears to be a proper point towards which to direct the march of the columns for the purpose of ulterior measures.

When arrived within the insurgent country, if an armed opposition appear, it may be proper to publish a proclamation, inviting all good citizens—friends of the Constitution and laws—to join the standard of the United States. If no armed opposition exist, it may still be proper to publish a proclamation, exhorting to a peaceable and dutiful demeanor, and giving assurances of performing with good faith and liberality whatsoever may have been promised by the Commissioners to those who have complied with the conditions prescribed by them, and who have not forfeited their title by subsequent misconduct.

Of those persons in arms, if any, whom you may make prisoners, leaders, including all persons in command, are to be delivered up to the civil magistrate; the rest to be disarmed, admonished, and

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sent home, (except such as may have been particularly violent and also influential,) causing their own recognizances for their good behavior to be taken, in the cases in which it may be deemed expedient.

With a view to the second point, namely, "the countenance and support of the civil officers in the means of executing the laws," you will make such dispositions as shall appear proper to countenance and protect, and, if necessary, and required by them, to support and aid the civil officers in the execution of their respective duties; for bringing offenders and delinquents to justice; for seizing the stills of delinquent distillers, as far as the same shall be deemed eligible by the supervisor of the revenue, or chief officer of inspection; and also for conveying to places of safe custody such persons as may be apprehended and not admitted to bail.

The objects of judiciary process, and other civil proceedings, will be—

1. To bring offenders to justice.
2. To enforce penalties on delinquent distillers by suit.
3. To enforce the penalty of forfeiture on the same persons by the seizure of their stills and spirits.

The better to effect these purposes, the judge of the district, Richard Peters, Esq., and the attorney of the district, William Rawle, Esq., accompany the army.

You are aware that the judge cannot be controlled in his functions; but I count on his disposition to co-operate in such a general plan as shall appear to you consistent with the policy of the case. But your method of giving a direction to legal proceedings, according to your general plan, will be by instruction to the district attorney.

He ought particularly to be instructed, (with due regard to time and circumstance,) 1st. To procure to be arrested all influential actors in riots and unlawful assemblies relating to the insurrection, and combinations to resist the laws, or having for object to abet that insurrection and those combinations, and who shall not have complied with the terms offered by the Commissioners, or manifested their repentance in some other way, which you may deem satisfactory. 2d. To cause process to issue for enforcing penalties upon delinquent distillers. 3d. To cause offenders who may be arrested to be conveyed to jails where there will be no danger of rescue; those for misdemeanors, to the jails of York and Lancaster; those for capital offences, to the jail of Philadelphia, as more secure than the others. 4th. To prosecute indictable offences in the courts of the United States; those for penalties on delinquents, under the laws before mentioned, in the courts of Pennsylvania.

As a guide in the case, the district attorney has with him a list of the persons who have availed themselves of the offers of the Commissioners on the day appointed.

The seizure of stills is the province of the supervisor and other officers of inspection. It is dif-

ficult to chalk out the precise line concerning it. There are opposite considerations, which will require to be nicely balanced, and which must be judged of by those officers on the spot. It may be found useful to confine the seizures to stills of the most leading and refractory distillers. It may be advisable to extend them far in the most refractory county.

When the insurrection is subdued, and the requisite means have been put in execution to secure obedience to the laws, so as to render it proper for the army to retire, (an event which you will accelerate as much as shall be consistent with the object,) you will endeavor to make an arrangement for detaching such a force as you deem adequate, to be stationed within the disaffected country, in such manner as best to afford protection to well-disposed citizens and to the officers of the revenue, and to repress, by their presence, the spirit of riot and opposition to the laws.

But before you withdraw the army, you will promise, on behalf of the President, a general pardon to all such as shall not have been arrested, with such exceptions as you shall deem proper. The promise must be so guarded as not to affect pecuniary claims under the revenue laws. In this measure, it is advisable there should be a co-operation with the Governor of Pennsylvania.

On the return of the army, you will adopt some convenient and certain arrangement for restoring to the public magazines the arms, accoutrements, military stores, tents, and other articles of camp equipage and entrenching tools, which have been furnished, and shall not have been consumed or lost.

You are to exert yourself by all possible means to preserve discipline among the troops, particularly a scrupulous regard to the rights of persons and property, and a respect for the authority of the civil magistrate; taking especial care to inculcate and cause to be observed this principle: that the duties of the army are confined to the attacking and subduing of armed opponents of the laws, and to the supporting and aiding of the civil officers in the execution of their functions.

It has been settled that the Governor of Pennsylvania will be second, the Governor of New Jersey third in command; and that the troops of the several States in line, on the march and upon detachment, are to be posted according to the rule which prevailed in the army during the late war, namely, in moving toward the sea-board, the most southern troops will take the right; in moving westward, the most northern will take the right.

These general instructions, however, are to be considered as liable to such alterations and deviations in the detail as from local and other causes may be found necessary, the better to effect the main object upon the general principles which have been indicated.

With great respect, I have the honor to be, sir, your obedient servant,

ALEXANDER HAMILTON.

Gen. HENRY LEE.



*Washington's Farewell Address.*

## WASHINGTON'S FAREWELL ADDRESS.

## TO THE PEOPLE OF THE UNITED STATES.

**FRIENDS AND FELLOW-CITIZENS:** The period for a new election of a citizen to administer the Executive Government of the United States being not far distant, and the time actually arrived when your thoughts must be employed in designating the person who is to be clothed with that important trust, it appears to me proper, especially as it may conduce to a more distinct expression of the public voice, that I should now apprise you of the resolution I have formed, to decline being considered among the number of those out of whom a choice is to be made.

I beg you, at the same time, to do me the justice to be assured, that this resolution has not been taken without a strict regard to all the considerations appertaining to the relation which binds a dutiful citizen to his country; and that, in withdrawing the tender of service which silence, in my situation, might imply, I am influenced by no diminution of zeal for your future interest, no deficiency of grateful respect for your past kindness; but am supported by a full conviction that the step is compatible with both.

The acceptance of, and continuance hitherto in, the office to which your suffrages have twice called me, have been a uniform sacrifice of inclination to the opinion of duty, and to a deference for what appeared to be your desire. I constantly hoped that it would have been much earlier in my power, consistently with motives which I was not at liberty to disregard, to return to that retirement from which I had been reluctantly drawn. The strength of my inclination to do this previous to the last election, had even led to the preparation of an address to declare it to you; but mature reflection on the then perplexed and critical posture of our affairs with foreign nations, and the unanimous advice of persons entitled to my confidence, impelled me to abandon the idea.

I rejoice that the state of your concerns, external as well as internal, no longer renders the pursuit of inclination incompatible with the sentiment of duty or propriety; and am persuaded, whatever partiality may be retained for my services, that in the present circumstances of our country you will not disapprove my determination to retire.

The impressions with which I first undertook the arduous trust were explained on the proper occasion. In the discharge of this trust, I will only say, that I have, with good intentions, contributed towards the organization and administration of the Government, the best exertions of which a very fallible judgment was capable. Not unconscious, in the outset, of the inferiority of my qualifications, experience, in my own eyes, perhaps still more in the eyes of others, has strengthened the motives to diffidence of myself; and every day, the increasing weight of years admonishes me more and more, that the shade of retirement is as necessary to me as it will be

welcome. Satisfied that if any circumstances have given peculiar value to my services they were temporary, I have the consolation to believe, that while choice and prudence invite me to quit the political scene, patriotism does not forbid it.

In looking forward to the moment which is intended to terminate the career of my public life, my feelings do not permit me to suspend the deep acknowledgment of that debt of gratitude which I owe to my beloved country for the many honors it has conferred upon me; still more for the steadfast confidence with which it has supported me, and for the opportunities I have thence enjoyed of manifesting my inviolable attachment, by services faithful and persevering, though in usefulness unequal to my zeal. If benefits have resulted to our country from these services, let it always be remembered to your praise, and as an instructive example in our annals, that under circumstances in which the passions, agitated in every direction, were liable to mislead—amidst appearances sometimes dubious, vicissitudes of fortune often discouraging, in situations in which, not unfrequently, want of success has countenanced the spirit of criticism—the constancy of your support was the essential prop of the efforts and a guaranty of the plans by which they were effected. Profoundly penetrated with this idea I shall carry it with me to my grave, as a strong incitement to unceasing vows that Heaven may continue to you the choicest tokens of its beneficence, that your union and brotherly affection may be perpetual; that the free Constitution, which is the work of your hands, may be sacredly maintained; that its administration in every department may be stamped with wisdom and virtue; that, in fine, the happiness of the people of these States, under the auspices of liberty, may be made complete, by so careful a preservation and so prudent a use of this blessing, as will acquire to them the glory of recommending it to the applause, the affection, and adoption of every nation which is yet a stranger to it.

Here, perhaps, I ought to stop. But a solicitude for your welfare, which cannot end but with my life, and the apprehension of danger natural to that solicitude, urge me, on an occasion like the present, to offer to your solemn contemplations, and to recommend to your frequent review, some sentiments, which are the result of much reflection, of no inconsiderable observation, and which appear to me all-important to the permanency of your felicity as a people. These will be offered to you with the more freedom, as you can only see in them the disinterested warnings of a parting friend, who can possibly have no personal motive to bias his counsel. Nor can I forget, as an encouragement to it, your indulgent reception of my sentiments on a former and not dissimilar occasion.

Interwoven as is the love of liberty with every ligament of your hearts, no recommendation of mine is necessary to fortify or confirm the attachment.

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The unity of government which constitutes you one people is also now dear to you. It is justly so; for it is a main pillar in the edifice of your real independence—the support of your tranquility at home, your peace abroad; of your safety, of your prosperity, of that very liberty which you so highly prize. But as it is easy to foresee that from different causes and from different quarters much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth; as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed, it is of infinite moment that you should properly estimate the immense value of your national union to your collective and individual happiness—that you should cherish a cordial, habitual, and immovable attachment to it; accustoming yourselves to think and speak of it as of the palladium of your political safety and prosperity; watching for its preservation with jealous anxiety, discountenancing whatever may suggest even a suspicion that it can in any event be abandoned, and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts.

For this you have every inducement of sympathy and interest. Citizens, by birth or choice, of a common country, that country has a right to concentrate your affections. The name of **AMERICAN**, which belongs to you in your national capacity, must always exalt the just pride of patriotism, more than any appellation derived from local discriminations. With slight shades of difference, you have the same religion, manners, habits and political principles. You have, in a common cause, fought and triumphed together; the independence and liberty you possess are the work of joint counsels and joint efforts, of common dangers, sufferings, and successes.

But these considerations, however powerfully they address themselves to your sensibility, are greatly outweighed by those which apply more immediately to your interest. Here, every portion of our country finds the most commanding motives for carefully guarding and preserving the Union of the whole.

The North, in an unrestrained intercourse with the South, protected by the equal laws of a common Government, finds in the productions of the latter great additional resources of maritime and commercial enterprise, and precious materials of manufacturing industry. The South, in the same intercourse, benefitting by the agency of the North, sees its agriculture grow and its commerce expand. Turning partly into its own channels the seamen of the North, it finds its particular navigation invigorated; and while it contributes in different ways to nourish and increase the general mass of the national navigation, it looks forward to the protection of a maritime strength to which itself is unequally adapted. The East, in a like intercourse with the West,

already finds, and in the progressive improvement of interior communications, by land and water, will more and more find, a valuable vent for the commodities which it brings from abroad or manufactures at home. The West derives from the East supplies requisite to its growth and comfort, and, what is perhaps of still greater consequence, it must of necessity owe the secure enjoyment of indispensable outlets for its own productions, to the weight, influence, and the future maritime strength of the Atlantic side of the Union, directed by an indissoluble community of interest as one nation. Any other tenure by which the West can hold this essential advantage, whether derived from its own separate strength, or from an apostate and unnatural connexion with any foreign Power, must be intrinsically precarious.

While, then, every part of our country thus feels an immediate and particular interest in union, all the parts combined cannot fail to find in the united mass of means and efforts, greater strength, greater resource, proportionably greater security from external danger, a less frequent interruption of their peace by foreign nations; and what is of inestimable value, they must derive from union an exemption from those broils and wars between themselves, which so frequently afflict neighboring countries, not tied together by the same Government; which their own rivalships alone would be sufficient to produce, but which opposite foreign alliances, attachments, and intrigues, would stimulate and embitter. Hence, likewise, they will avoid the necessity of those overgrown military establishments, which, under any form of government, are inauspicious to liberty, and which are to be regarded as particularly hostile to republican liberty. In this sense it is, that your union ought to be considered as a main prop of your liberty, and that the love of the one ought to endear to you the preservation of the other.

These considerations speak a persuasive language to every reflecting and virtuous mind, and exhibit the continuance of the Union as a primary object of patriotic desire. Is there a doubt whether a common government can embrace so large a sphere? Let experience solve it. To listen to mere speculation in such a case were criminal. We are authorized to hope that a proper organization of the whole, with the auxiliary agency of governments for the respective subdivisions, will afford a happy issue to the experiment. It is well worth a fair and full experiment. With such powerful and obvious motives to union, affecting all parts of our country, while experience shall not have demonstrated its impracticability, there will always be reason to distrust the patriotism of those who, in any quarter, may endeavor to weaken its bands.

In contemplating the causes which may disturb our Union, it occurs as matter of serious concern, that any ground should have been furnished for characterizing parties by *geographical* discriminations—*Northern* and *Southern*—*Atlantic* and *Western*; whence designing men may endeavor to excite a belief that there is a real dif-

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ference of local interests and views. One of the expedients of party to acquire influence, within particular districts, is to misrepresent the opinions and aims of other districts. You cannot shield yourselves too much against the jealousies and heart-burnings which spring from these misrepresentations; they tend to render alien to each other those who ought to be bound together by fraternal affection. The inhabitants of our western country have lately had a useful lesson on this head: they have seen, in the negotiation by the Executive, and in the unanimous ratification by the Senate, of the treaty with Spain, and in the universal satisfaction at that event throughout the United States, a decisive proof how unfounded were the suspicions propagated among them of a policy in the General Government, and in the Atlantic States, unfriendly to their interest in regard to the Mississippi: they have been witnesses to the formation of two treaties, that with Great Britain and that with Spain, which secure to them everything they could desire, in respect to our foreign relations, towards confirming their prosperity. Will it not be their wisdom to rely for the preservation of these advantages on the Union by which they were procured? Will they not henceforth be deaf to those advisers, if such there are, who would sever them from their brethren, and connect them with aliens?

To the efficacy and permanency of your Union, a government for the whole is indispensable. No alliances, however strict, between the parts, can be an adequate substitute; they must inevitably experience the infractions and interruptions which all alliances in all times have experienced. Sensible of this momentous truth, you have improved upon your first essay, by the adoption of a constitution of government better calculated than your former for an intimate union, and for the efficacious management of your common concerns. This government, the offspring of our own choice, uninfluenced and unawed, adopted upon full investigation and mature deliberation, completely free in its principles, in the distribution of its powers, uniting security with energy, and containing within itself a provision for its own amendment, has a just claim to your confidence and your support. Respect for its authority, compliance with its laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true liberty. The basis of our political systems is the right of the people to make and to alter their constitutions of government. But, the constitution which at any time exists, till changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all. The very idea of the power and the right of the people to establish government, pre-supposes the duty of every individual to obey the established government.

All obstructions to the execution of the laws, all combinations and associations, under whatever plausible character, with the real design to direct, control, counteract, or awe the regular deliberation and action of the constituted authorities, are destructive of this fundamental principle, and of

fatal tendency. They serve to organize faction, to give it an artificial and extraordinary force—to put in the place of the delegated will of the nation, the will of a party, often a small but artful and enterprising minority of the community; and, according to the alternate triumphs of different parties, to make the public administration the mirror of the ill-concerted and incongruous projects of faction, rather than the organ of consistent and wholesome plans digested by common councils, and modified by mutual interests.

However combinations or associations of the above description may now and then answer popular ends, they are likely, in the course of time and things, to become potent engines, by which cunning, ambitious, and unprincipled men, will be enabled to subvert the power of the people, and to usurp for themselves the reins of government; destroying afterwards the very engines which have lifted them to unjust dominion.

Towards the preservation of your Government, and the permanency of your present happy state, it is requisite, not only that you steadily discountenance irregular opposition to its acknowledged authority, but also that you resist with care the spirit of innovation upon its principles, however specious the pretexis. One method of assault may be to effect in the forms of the Constitution alterations which will impair the energy of the system, and thus to undermine what cannot be directly overthrown. In all the changes to which you may be invited, remember that time and habit are at least as necessary to fix the true character of governments as of other human institutions—that experience is the surest standard by which to test the real tendency of the existing constitution of a country—that facility in changes upon the credit of mere hypothesis and opinion, exposes to perpetual change, from the endless variety of hypothesis and opinion; and remember, especially, that for the efficient management of your common interests, in a country so extensive as ours, a government of as much vigor as is consistent with the perfect security of liberty, is indispensable. Liberty itself will find in such a government, with powers properly distributed and adjusted, its surest guardian. It is, indeed, little else than a name, where the government is too feeble to withstand the enterprises of faction, to confine each member of the society within the limits prescribed by the laws, and to maintain all in the secure and tranquil enjoyment of the rights of person and property.

I have already intimated to you the danger of parties in the State, with particular reference to the founding of them on geographical discriminations. Let me now take a more comprehensive view, and warn you in the most solemn manner against the baneful effects of the spirit of party, generally.

This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes in all governments, more or less stifled, controlled, or repressed; but in those of the popu-

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lar form, it is seen in its greatest rankness, and is truly their worst enemy.

The alternate domination of one faction over another, sharpened by the spirit of revenge, natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads at length to a more formal and permanent despotism. The disorders and miseries which result, gradually incline the minds of men to seek security and repose in the absolute power of an individual; and sooner or later, the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation, on the ruins of public liberty.

Without looking forward to an extremity of this kind, (which nevertheless ought not to be entirely out of sight,) the common and continual mischiefs of the spirit of party are sufficient to make it the interest and duty of a wise people to discourage and restrain it.

It serves always to distract the public councils and enfeeble the public administration. It agitates the community with ill-founded jealousies and false alarms; kindles the animosity of one part against another; foment, occasionally, riot and insurrection. It opens the door to foreign influence and corruption, which find a facilitated access to the government itself, through the channels of party passions. Thus the policy and the will of one country are subjected to the policy and will of another.

There is an opinion that parties in free countries are useful checks upon the administration of the government, and serve to keep alive the spirit of liberty. This, within certain limits, is probably true; and in governments of a monarchical cast, patriotism may look with indulgence, if not with favor, upon the spirit of party. But in those of the popular character, in governments purely elective, it is a spirit not to be encouraged. From their natural tendency, it is certain there will always be enough of that spirit for every salutary purpose. And there being constant danger of excess, the effort ought to be, by force of public opinion, to mitigate and assuage it. A fire not to be quenched, it demands a uniform vigilance to prevent its bursting into a flame, lest, instead of warming, it should consume.

It is important likewise, that the habits of thinking in a free country, should inspire caution in those entrusted with its administration, to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power, and proneness to abuse it, which predominates in the human heart, is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the guardian of the

public weal against invasions by the others, has been evinced by experiments, ancient and modern: some of them in our country and under our own eyes. To preserve them must be as necessary as to institute them. If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in a way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield.

Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism, who should labor to subvert these great pillars of human happiness, these firmest props of the duties of men and citizens. The mere politician, equally with the pious man, ought to respect and to cherish them. A volume could not trace all their connexions with private and public felicity. Let it simply be asked, where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths, which are the instruments of investigation in courts of justice? And let us with caution indulge the supposition, that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle.

It is substantially true, that virtue or morality is a necessary spring of popular government. The rule, indeed, extends with more or less force to every species of free government. Who that is a sincere friend to it can look with indifference upon attempts to shake the foundation of the fabric?

Promote, then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened.

As a very important source of strength and security, cherish public credit. One method of preserving it is, to use it as sparingly as possible; avoiding occasions of expense by cultivating peace; but remembering, also, that timely disbursements to prepare for danger, frequently prevent much greater disbursements to repel it; avoiding, likewise, the accumulation of debt, not only by shunning occasions of expense, but by vigorous exertions in time of peace to discharge the debts which unavoidable wars may have occasioned, not ungenerously throwing upon posterity the burden which we ourselves ought to bear. The execution of these maxims belongs to your Representatives; but it is necessary that public opinion should co-operate. To facilitate to them the performance of their duty, it is essential that you should practically bear in mind, that towards the payment of debts there must be re-

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venue; that to have revenue, there must be taxes; that no taxes can be devised which are not more or less inconvenient and unpleasant; that the intrinsic embarrassment inseparable from the selection of the proper objects, (which is always a choice of difficulties,) ought to be a decisive motive for a candid construction of the Government in making it, and for the spirit of acquiescence in the measures for obtaining revenue, which the public exigencies may at any time dictate.

Observe good faith and justice towards all nations; cultivate peace and harmony with all; religion and morality enjoin this conduct; and can it be, that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and, at no distant period, a great nation, to give to mankind the magnanimous and too novel example of a people always guided by an exalted justice and benevolence. Who can doubt that, in the course of time and things, the fruits of such a plan would richly repay any temporary advantages which might be lost by a steady adherence to it? Can it be, that Providence has not connected the permanent felicity of a nation with its virtue? The experiment, at least, is recommended by every sentiment which ennobles human nature. Alas! is it rendered impossible by its vices?

In the execution of such a plan, nothing is more essential than that permanent inveterate antipathies against particular nations, and passionate attachments for others, should be excluded; and that, in place of them, just and amicable feelings towards all should be cultivated. The nation which indulges towards another an habitual hatred, or an habitual fondness, is, in some degree, a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest. Antipathy in one nation against another, disposes each more readily to offer insult and injury, to lay hold of slight causes of umbrage, and to be haughty and intractable, where accidental or trifling occasions of dispute occur. Hence, frequent collisions, obstinate, envenomed, and bloody contests. The nation, prompted by ill-will and resentment, sometimes impels to war the Government, contrary to the best calculations of policy. The Government sometimes participates in the national propensity, and adopts, through passion, what reason would reject; at other times, it makes the animosity of the nation subservient to projects of hostility, instigated by pride, ambition, and other sinister and pernicious motives. The peace often, sometimes, perhaps, the liberty of nations, has been the victim.

So, likewise, a passionate attachment of one nation for another produces a variety of evils. Sympathy for the favorite nation, facilitating the illusion of an imaginary common interest, in cases where no real common interest exists, and infusing into one the enmities of the other, betrays the former into a participation in the quarrels and wars of the latter, without adequate inducement or justification. It leads, also, to concessions to the favorite nation of privileges denied to others, which is apt doubly to injure the nation making the concessions; by unnecessarily parting with

what ought to have been retained; and by exciting jealousy, ill-will, and a disposition to retaliate, in the parties from whom equal privileges are withheld; and it gives to ambitious, corrupted, or deluded citizens, (who devote themselves to the favorite nation,) facility to betray or sacrifice the interests of their own country, without odium, sometimes even with popularity; gilding with the appearances of a virtuous sense of obligation, a commendable deference for public opinion, or a laudable zeal for public good, the base or foolish compliances of ambition, corruption, or infatuation.

As avenues to foreign influence in innumerable ways, such attachments are particularly alarming to the truly enlightened and independent patriot. How many opportunities do they afford to tamper with domestic factions, to practise the arts of seduction, to mislead public opinion, to influence or awe the public councils! Such an attachment of a small or weak, towards a great and powerful nation, dooms the former to be the satellite of the latter.

Against the insidious wiles of foreign influence (I conjure you to believe me, my fellow-citizens) the jealousy of a free people ought to be *constantly* awake; since history and experience prove, that foreign influence is one of the most baneful foes of Republican Government. But that jealousy to be useful must be impartial; else it becomes the instrument of the very influence to be avoided, instead of a defence against it. Excessive partiality for one foreign nation, and excessive dislike of another, cause those whom they actuate to see danger only on one side, and serve to veil and even second the arts of influence on the other. Real patriots, who may resist the intrigues of the favorite, are liable to become suspected and odious; while its tools and dupes usurp the applause and confidence of the people to surrender their interests.

The great rule of conduct for us, in regard to foreign nations, is, in extending our commercial relations, to have with them as little *political* connexion as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith. Here let us stop.

Europe has a set of primary interests, which to us have none, or a very remote relation. Hence, she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence, therefore, it must be unwise in us to implicate ourselves, by artificial ties, in the ordinary vicissitudes of her politics, or the ordinary combinations of her friendships or enmities.

Our detached and distant situation invites and enables us to pursue a different course. If we remain one people, under an efficient government, the period is not far off, when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality, we may at any time resolve upon, to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation; when we may choose peace or war, as our interest, guided by justice, shall counsel.

Why forego the advantages of so peculiar a situ-



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ation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalship, interest, humor, or caprice?

It is our true policy to steer clear of permanent alliances with any portion of the foreign world; so far, I mean, as we are now at liberty to do it; for let me not be understood as capable of patronizing infidelity to existing engagements. I hold the maxim no less applicable to public than to private affairs, that honesty is always the best policy. I repeat it, therefore, let those engagements be observed in their genuine sense. But, in my opinion, it is unnecessary, and would be unwise to extend them. Taking care to keep ourselves, by suitable establishments, on a respectable defensive posture, we may safely trust to temporary alliances for extraordinary emergencies.

Harmony, and a liberal intercourse with all nations, are recommended by policy, humanity, and interest. But even our commercial policy should hold an equal and impartial hand; neither seeking nor granting exclusive favors or preferences; consulting the natural course of things; diffusing and diversifying, by gentle means, the streams of commerce, but forcing nothing; establishing, with Powers so disposed, in order to give trade a stable course, to define the rights of our merchants, and to enable the Government to support them, conventional rules of intercourse, the best that present circumstances and mutual opinion will permit, but temporary, and liable to be from time to time abandoned or varied as experience and circumstances shall dictate; constantly keeping in view, that it is folly in one nation to look for disinterested favors from another; that it must pay with a portion of its independence for whatever it may accept under that character; that, by such acceptance, it may place itself in the condition of having given equivalents for nominal favors, and yet of being reproached with ingratitude for not giving more. There can be no greater error than to expect, or calculate upon real favors from nation to nation. It is an illusion which experience must cure, which a just pride ought to discard.

In offering to you, my countrymen, these counsels of an old and affectionate friend, I dare not hope they will make the strong and lasting impression I could wish; that they will control the usual current of the passions, or prevent our nation from running the course which has hitherto marked the destiny of nations; but if I may even flatter myself, that they may be productive of some partial benefit, some occasional good; that they may now and then recur to moderate the fury of party spirit, to warn against the mischiefs of foreign intrigue, to guard against the impostures of pretended patriotism; this hope will be a full recompense for the solicitude for your welfare, by which they have been dictated.

How far in the discharge of my official duties, I have been guided by the principles which have been delineated, the public records and other evidences of my conduct must witness to you and to

the world. To myself, the assurance of my own conscience is, that I have at least believed myself to be guided by them.

In relation to the still subsisting war in Europe, my proclamation of the 22d of April, 1793, is the index to my plan. Sanctioned by your approving voice and by that of your Representatives in both Houses of Congress, the spirit of that measure has continually governed me; uninfluenced by any attempts to deter or divert me from it.

After deliberate examination, with the aid of the best lights I could obtain, I was well satisfied that our country, under all the circumstances of the case, had a right to take, and was bound in duty and interest to take a neutral position. Having taken it, I determined, as far as should depend upon me, to maintain it, with moderation, perseverance, and firmness.

The considerations which respect the right to hold this conduct, it is not necessary on this occasion to detail. I will only observe that, according to my understanding of the matter, that right, so far from being denied by any of the belligerent Powers, has been virtually admitted by all.

The duty of holding a neutral conduct may be inferred, without anything more, from the obligation which justice and humanity impose on every nation, in cases in which it is free to act, to maintain inviolate the relations of peace and amity towards other nations.

The inducements of interest for observing that conduct will best be referred to your own reflections and experience. With me, a predominant motive has been to endeavor to gain time to our country to settle and mature its recent institutions, and to progress, without interruption, to that degree of strength and consistency, which is necessary to give it, humanly speaking, the command of its own fortunes.

Though, in reviewing the incidents of my administration, I am unconscious of intentional error, I am, nevertheless, too sensible of my defects not to think it probable that I may have committed many errors. Whatever they may be, I fervently beseech the Almighty to avert or mitigate the evils to which they may tend. I shall also carry with me the hope that my country will never cease to view them with indulgence; and that after forty-five years of my life dedicated to its service, with an upright zeal, the faults of incompetent abilities will be consigned to oblivion, as myself must soon be to the mansion of rest.

Relying on its kindness in this as in other things, and actuated by that fervent love towards it, which is so natural to a man, who views in it the native soil of himself and his progenitors for several generations; I anticipate, with pleasing expectation, that retreat, in which I promise myself to realize, without alloy, the sweet enjoyment of partaking, in the midst of my fellow-citizens, the benign influence of good laws under a free Government—the ever favorite object of my heart, and the happy reward, as I trust, of our mutual cares, labors, and dangers.

G. WASHINGTON.

UNITED STATES, Sept. 17, 1796.



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dred and ninety-five, by an act of the last session of Congress, ten thousand one hundred dollars.

For compensation to the Secretary of War, clerks, and persons employed in his office, seven thousand and fifty dollars.

For expense of firewood, stationery, printing, rent, and other contingent expenses of the office of the Secretary of War, (including the rent of the General Post Office which is kept under the same roof,) one thousand eight hundred dollars.

For compensation to the Accountant to the War Department, clerks and persons employed in his office, six thousand four hundred and fifty dollars.

For contingent expenses in the office of the Accountant to the War Department, six hundred dollars.

For compensations to the following officers of the Mint: The Director, two thousand dollars; the Treasurer, one thousand two hundred dollars; the Assayer, one thousand five hundred dollars; the Chief Coiner, one thousand five hundred dollars; the Melter and Refiner, one thousand five hundred dollars; the Engraver, one thousand two hundred dollars; three clerks, at five hundred dollars each, one thousand five hundred dollars.

For the purchase of copper for the use of the Mint, thirteen thousand dollars.

For defraying the expenses of laborers in the different branches of refining, melting, and coining at the Mint, eight thousand dollars.

For the pay of mechanics employed in repairing and making machinery for the Mint, three thousand two hundred and sixty-four dollars.

For the purchase of ironmongery, lead, wood, coals, stationery, office furniture, and for other contingencies of the establishment of the Mint, eight thousand seven hundred dollars.

For making good deficiencies in the former appropriations for the Mint, to the end of the year one thousand seven hundred and ninety-five, eighteen thousand three hundred dollars.

For compensations to the Governors, Secretaries, and Judges of the Territory northwest, and the Territory south of the river Ohio, ten thousand three hundred dollars.

For expenses of stationery, office-rent, printing, patents for lands, and other contingent expenses in both the said Territories, seven hundred dollars.

For the payment of sundry pensions, granted by the late Government, two thousand and seven dollars, and seventy-three cents.

For the annual allowance to the widow and orphan children of Colonel John Harding, and to the orphan children of Major Alexander Trueman, by the act of Congress of the twenty seventh of February, one thousand seven hundred and ninety-three, seven hundred and fifty dollars.

For the annual allowance for the education of Hugh Mercer, son of the late Major General Mercer, by an act of Congress of the second of March, one thousand seven hundred and ninety-three, four hundred dollars.

For the discharge of such demands against the United States, on account of the Civil Depart-

ment, not otherwise provided for, as shall have been ascertained and admitted in due course of settlement at the Treasury, and which are of a nature, according to the usage thereof, to require payment in specie, three thousand dollars.

SEC. 2. *And be it further enacted*, That for the support of light houses, beacons, buoys, and public piers, for the year one thousand seven hundred and ninety-six; and to satisfy certain miscellaneous claims, stated in the report of the Secretary of the Treasury, of the fourteenth of December last, there be appropriated a sum not exceeding thirty-seven thousand six hundred and seventy-two dollars, and nine cents; that is to say:

For the maintenance and support of light houses, beacons, buoys, public piers, and stakeage of channels, bars, and shoals, twenty-four thousand dollars.

To repay David Lenox, late Marshal of the district of Pennsylvania, for payments made with the approbation of the Judge of the said district, to sundry persons, for summoning jurors to attend the district court of Pennsylvania, upon the trial of sundry persons committed for high treason, two hundred and fifty-six dollars, and eighty-eight cents.

For the payment of a balance due to Lewis Pintard, agent for American prisoners to the city of New York, during the late war, four hundred and twenty-nine dollars, and twenty-one cents.

For the payment of a balance due to the representatives of Thomas Smith, late Commissioner of the loan office for the State of Pennsylvania, nine thousand and eleven dollars, and ninety-seven cents.

For the payment of a balance due to the representatives of Joseph Clarke, late Commissioner of the loan office for the State of Rhode Island, one thousand nine hundred and seventy-four dollars, and three cents.

For the discharge of such miscellaneous demands against the United States, other than those on account of the Civil Department, not otherwise provided for, and which shall have been ascertained and admitted in due course of settlement at the Treasury, and which are of a nature, according to the usage thereof, to require payment in specie, two thousand dollars.

SEC. 3. *And be it further enacted*, That the several appropriations hereinbefore made, shall be paid and discharged out of the fund of six hundred thousand dollars, reserved by the act "making provision for the debt of the United States."

JONATHAN DAYTON,  
*Speaker of the House of Representatives.*

JOHN ADAMS,  
*Vice President of the United States,  
and President of the Senate.*

Approved, February 5, 1796.

G. WASHINGTON,  
*President of the United States.*

## Acts of Congress.

An Act further extending the time for receiving on loan the Domestic Debt of the United States.

*Be it enacted, &c.,* That the term for receiving on loan that part of the Domestic Debt of the United States, which has not been subscribed, in pursuance of the provisions heretofore made, by law for that purpose, be, and the same is hereby, further extended until the thirty-first day of December next, on the same terms and conditions as are contained in the act, entitled "An act making provision for the debt of the United States." *Provided,* That the books for receiving the said subscriptions shall be opened only at the Treasury of the United States.

SEC. 2. *And be it further enacted,* That it shall be lawful to reimburse so much of the principal of the debt or stock, which may be subscribed, pursuant to this act, as will make the reimbursement thereof equal, in proportion and degree, to that of the same stock subscribed antecedent to the present year; and the said reimbursement shall be made at the expiration of the quarter in which such debt or stock shall be subscribed, and pursuant to the rules and conditions prescribed by the act, entitled "An act making further provision for the support of public credit, and for the redemption of the public debt."

SEC. 3. *And be it further enacted,* That such of the creditors of the United States as have not subscribed, and shall not subscribe, to the said loan, shall, nevertheless, receive, during the year one thousand seven hundred and ninety-six, a rate per centum on the amount of such of their demands as have been registered, or shall be registered, at the Treasury, conformably to the directions in the act, entitled "An act making provision for the debt of the United States," equal to the interest which would be payable to them as subscribing creditors.

Approved, February 19, 1796.

An Act allowing compensation to the members of the Senate and House of Representatives of the United States, and to certain officers of both Houses.

*Be it enacted, &c.,* That at every session of Congress, and at every meeting of the Senate in the recess of Congress, from and after the third day of March in the present year, each Senator shall be entitled to receive six dollars for every day he shall attend the Senate; and shall also be allowed, at the commencement of every such session and meeting, six dollars for every twenty miles of the estimated distance, by the most usual road, from his place of residence to the seat of Congress. And in case any member of the Senate shall be detained by sickness on his journey to or from any such session or meeting, or, after his arrival, shall be unable to attend the Senate, he shall be entitled to the same daily allowance: *Provided, always,* That no Senator shall be allowed a sum exceeding the rate of six dollars per day from the end of one such session or meeting to the time of his taking his seat in another.

SEC. 2. *And be it further enacted,* That at each

session of Congress each Representative shall be entitled to receive six dollars for every day he shall attend the House of Representatives; and shall be allowed, at the commencement and end of each session, six dollars for every twenty miles of the estimated distance, by the most usual road, from his place of residence to the seat of Congress. And in case any Representative shall be detained by sickness on his journey to or from the session of Congress, or, after his arrival, shall be unable to attend the House of Representatives, he shall be entitled to the daily allowance aforesaid. And the Speaker of the House of Representatives shall be entitled to receive, in addition to his compensation as a Representative, six dollars for every day he shall attend the House: *Provided, always,* That no Representative shall be allowed a sum exceeding the rate of six dollars per day, from the end of one such session or meeting, to the time of his taking his seat in another.

SEC. 3. *And be it further enacted,* That there shall be allowed to each Chaplain of Congress at the rate of five hundred dollars per annum, during the session of Congress; to the Secretary of the Senate and Clerk of the House of Representatives, fifteen hundred dollars per annum each, to commence from the time of their respective appointments; and, also, a further allowance of two dollars per day to each, during the session of that branch for which he officiates. And the said Secretary and Clerk shall each be allowed (when the President of the Senate or Speaker shall deem it necessary) to employ one principal clerk, who shall be paid three dollars per day, and two engrossing clerks, who shall be paid two dollars per day each, during the session, with the like compensations to such clerks, respectively, while they shall be necessarily employed in the recess.

SEC. 4. *And be it further enacted,* That there shall be allowed to the Sergeant-at-Arms the sum of four dollars per day, during every session of Congress, and while employed on the business of the House.

SEC. 5. *And be it further enacted,* That the said compensation, which shall be due to the members and officers of the Senate, shall be certified by the President; and that which shall be due to the members and officers of the House of Representatives, shall be certified by the Speaker; and the same shall be passed as public accounts, and paid out of the public Treasury.

Approved, March 10, 1796.

An Act providing relief, for a limited time, in certain cases, of invalid registers.

*Be it enacted, &c.,* That the Secretary of the Treasury be, and he is hereby, empowered to allow to such vessels and their cargoes, whose registers have already, or that may, before the close of the present session of Congress, become invalid, by reason of a non-compliance with the terms of the fifth section of the act "concerning the registering and recording of ships or vessels," the same privileges and benefits they would have been en-

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titled to if no such invalidity had taken place: *Provided*, It shall appear to him that such non-compliance did not proceed from wilful negligence or an intention of fraud: *And provided, also*, That a new register shall be obtained, in the manner prescribed by law, for such vessels, respectively, as may now be within the United States, within ninety days from the passing of this act: and for others, within the same time after their first arrival within the United States.

Approved, March 10, 1796.

An Act making a partial appropriation for the support of the Military Establishment for the year one thousand seven hundred and ninety-six.

*Be it enacted, &c.*, That the sum of five hundred thousand dollars be, and the same is hereby, appropriated towards defraying the expenses of the Military Establishment for the year one thousand seven hundred and ninety-six.

*Sec. 2. And be it further enacted*, That the said sum shall be paid and discharged out of the funds following, to wit: First, the balance which may remain unexpended of the sum of six hundred thousand dollars, reserved by the act "making provision for the debt of the United States," after satisfying the appropriations made in the present session, for the support of Government. Secondly, the surplus of revenue and income beyond the appropriations heretofore charged thereupon, to the end of the year one thousand seven hundred and ninety-six.

Approved, March 12, 1796.

An Act for the relief of certain officers and soldiers who have been wounded or disabled in the actual service of the United States.

*Be it enacted, &c.*, That every commissioned, non-commissioned officer, private, or musician, who has been wounded or disabled, while in the line of his duty, in actual service, called out by authority of any law of the United States, while he belonged to the militia; or any volunteer not belonging to the militia, who has been wounded or disabled while in the line of his duty, in actual service, as aforesaid, shall be placed on the list of invalids of the United States, at such rate of pay, and under such regulations, as shall be directed by the President of the United States for the time being: *Provided*, The rate of compensation for such wounds and disabilities shall never exceed, for the highest disabilities, half the monthly pay received by any commissioned officer at the time of being so wounded or disabled; and that the rate of compensation to non-commissioned officers, privates, and musicians, shall never exceed five dollars per month; and that all inferior disabilities shall entitle the person so disabled to receive only a sum in proportion to the highest disability: *And provided*, That these provisions shall not be construed to extend to any person wounded or disabled before the fourth of March, one thousand seven hundred and eighty-nine, nor to any person wounded or disabled since that time, who has made application for a pension under

any existing law of the United States, and has been denied or admitted on the pension list: *And provided*, That all applications herein shall be made within one year after the end of the present session of Congress.

Approved, March 23, 1796.

An Act making certain provisions in regard to the Circuit Court for the District of North Carolina.

Whereas a sufficient quorum of judges did not attend to hold the Circuit Court for the district of North Carolina for the purpose of doing business in June term, one thousand seven hundred and ninety-five; and no judge attended to hold the said court in November term, in the same year, in consequence whereof certain provisions are now become necessary and expedient to prevent a failure of justice in the said court:

*Be it therefore enacted, &c.*, That it shall and may be lawful for the district judge of the State of North Carolina to direct the clerk of the said court to issue such process for the purpose of causing persons to be summoned to serve as jurymen at the said court, at the term to commence the first of June next, as has been before issued by the clerk of the said court for the like purpose, returnable to June term, one thousand seven hundred and ninety-five; that the persons ordered by the said process to be summoned for the said purpose shall be ordered to be summoned in the same proportion and from the same counties as those persons who were ordered to be summoned for the like purpose by process returnable at June term, one thousand seven hundred and ninety-five: *Provided*, That if it shall appear expedient to the said district judge that a different time of notice shall be prescribed than that hitherto prescribed, he may cause such other time of notice to be directed to be given as to him shall appear most conducive to justice and convenient to the persons so summoned; and the marshal is hereby directed to execute the said process so to be issued, and the persons who shall be legally summoned to attend as jurymen in consequence thereof are hereby required to attend the said court, under the like penalties for disobedience as if the said process had been ordered to be issued by the said court in the ordinary method of proceeding; and the marshal and the persons who shall attend as jurymen in virtue of the said process so to be issued shall be entitled to the like allowance for their services, respectively.

*Sec. 2. And be it further enacted*, That all suits and proceedings, of what nature or kind soever, which have been commenced in the said court and not finished, shall be proceeded on at the ensuing term, in the same manner and to the same effect as if the said Circuit Court had been regularly held for the purpose of business in June and November terms, one thousand seven hundred and ninety-five, and continuances had been regularly entered of all suits and proceedings in either or both of the said terms, in which they were depending, in the usual manner of proceeding, as the case might be.

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SEC. 3. *And be it further enacted*, That all writs and other process sued out of the clerk's office of the said Circuit Court, according to the accustomed method of bearing teste in November term, one thousand seven hundred and ninety-four, June term, one thousand seven hundred and ninety-five, or November term, one thousand seven hundred and ninety-five, shall be held and deemed of the same validity and effect as if the respective terms of June and November, one thousand seven hundred and ninety-five, had been regularly held by a judge or judges competent to do business and continuances in respect to writs or other process returnable to the two last mentioned terms had been regularly entered.

Approved, March 31, 1796.

An Act to continue in force "An act to ascertain the fees in Admiralty proceedings in the District Courts of the United States, and for other purposes."

*Be it enacted, &c.*, That the act, entitled "An act to ascertain the fees in Admiralty proceedings in the District Courts of the United States, and for other purposes," be, and is hereby, continued in force for the term of two years from the passing of this act, and from thence to the end of the next session of Congress thereafter, and no longer.

Approved, March 31, 1796.

An Act authorizing the erection of a light-house on Baker's island, in the State of Massachusetts.

*Be it enacted, &c.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to provide, by contract, which shall be approved by the President of the United States, for building a light-house on Baker's island, near the entrance into the harbor of Salem and Beverly, in the State of Massachusetts, (as soon as a cession of the jurisdiction to the United States over the land proper for the purpose is made by the said State,) and to furnish the same with all necessary supplies; and also to agree to the salaries or wages of the person or persons who may be appointed by the President for the superintendence and care of the same; and that the President be authorized to make the said appointments. That the number or disposition of the light or lights in the said light-house be such as may tend to distinguish it from others, as far as practicable; and that six thousand dollars be appropriated for the same, out of any moneys not otherwise appropriated.

Approved, April 8, 1796.

An Act for establishing trading-houses with the Indian tribes.

*Be it enacted, &c.*, That it shall be lawful for the President of the United States to establish trading-houses at such posts and places on the western and southern frontiers, or in the Indian country, as he shall judge most convenient for the purpose of carrying on a liberal trade with the

several Indian nations within the limits of the United States.

SEC. 2. *And be it further enacted*, That the President be authorized to appoint an agent for each trading-house established, whose duty it shall be to receive and dispose of in trade with the Indian nations aforementioned such goods as he shall be directed by the President of the United States to receive and dispose of as aforesaid, according to the rules and orders which the President shall prescribe; and every such agent shall take an oath or affirmation faithfully to execute the trust committed to him; and that he will not, directly or indirectly, be concerned or interested in any trade, commerce, or barter with any Indian or Indians whatever, but on the public account; and shall also give bond, with sufficient security, in such sum as the President of the United States shall direct, truly and honestly to account for all the money, goods, and other property whatever, which shall come into his hands, or for which, in good faith, he ought so to account, and to perform all the duties required of him by this act; and his accounts shall be made up half-yearly, and transmitted to the Secretary of the Treasury of the United States.

SEC. 3. *And be it further enacted*, That the agents, their clerks, or other persons employed by them, shall not be, directly or indirectly, concerned or interested in carrying on the business of trade or commerce on their own or any other than the public account, or take, or apply to his or their own use, any emolument or gain for negotiating or transacting any business or trade during their agency or employment, other than is provided by this act. And if any such person shall offend against any of the prohibitions aforesaid, he or they shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, forfeit to the United States a sum not exceeding one thousand dollars, and shall be removed from such agency or employment, and forever thereafter be incapable of holding any office under the United States: *Provided*, That if any other person than a public prosecutor shall give information of any such offence, upon which a prosecution and conviction shall be had, one-half the aforesaid penalty, when received, shall be for the use of the person giving such information.

SEC. 4. *And be it further enacted*, That the prices of the goods supplied to, and to be paid for by the Indians, shall be regulated in such manner that the capital stock furnished by the United States may not be diminished.

SEC. 5. *And be it further enacted*, That during the continuance of this act the President of the United States be, and he is hereby, authorized to draw annually from the Treasury of the United States a sum not exceeding eight thousand dollars, to be applied, under his direction, for the purpose of paying the agents and clerks; which agents shall be allowed to draw out of the public supplies two rations each, and each clerk one ration per day.

SEC. 6. *And be it further enacted*, That one hundred and fifty thousand dollars, exclusive of the

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allowances to agents and clerks, be, and they are hereby, appropriated for the purpose of carrying on trade and intercourse with the Indian nations in the manner aforementioned, to be paid out of any moneys unappropriated in the Treasury of the United States.

SEC. 7. *And be it further enacted*, That if any agent or agents, their clerks, or other persons employed by them, shall purchase or receive from any Indian, in the way of trade or barter, a gun, or other article commonly used in hunting; any instrument of husbandry, or cooking utensil, of the kind usually obtained by Indians in their intercourse with white people; any article of clothing, (except skins or furs,) he or they shall, respectively, forfeit the sum of one hundred dollars for each offence, to be recovered by action of debt, in the name and to the use of the United States, in any court of law of the United States, or of any particular State having jurisdiction in like cases, or in the Supreme or Superior Courts of the Territories of the United States: *Provided*, That no suit shall be commenced except in the State or Territory within which the cause of action shall have arisen, or the defendant may reside; and it shall be the duty of the Superintendents of Indian Affairs and their deputies, respectively, to whom information of every such offence shall be given, to collect the requisite evidence, if attainable, and to prosecute the offender without delay.

SEC. 8. *And be it further enacted*, That this act shall be in force for the term of two years, and to the end of the next session of Congress thereafter, and no longer.

Approved, April 18, 1796.

An Act supplementary to an act, entitled "An act to provide a Naval Armament."

*Be it enacted, &c.*, That the President of the United States be authorized to continue the construction and equipment (with all convenient expedition,) of two frigates of forty-four and one frigate of thirty-six guns," anything in the act, entitled "An act to provide a naval armament," to the contrary notwithstanding.

SEC. 2. *And be it further enacted*, That so much of the sum of six hundred and eighty-eight thousand eight hundred and eighty-eight dollars and eighty-two cents, which by the act of June the ninth, one thousand seven hundred and ninety-four, was appropriated, (to defray the expenses to be incurred pursuant to the act to provide a naval armament,) as remains unexpended, as well as the sum of eighty thousand dollars, which was appropriated for a provisional equipment of galleys by the before-recited act, be appropriated for the said purposes.

SEC. 3. *And be it further enacted*, That the President of the United States be and he is hereby authorized to cause to be sold, such part of the perishable materials as may not be wanted for completing the three frigates, and to cause the surplus of the other materials to be safely kept for the future use of the United States.

Approved, April 20, 1796.

An Act authorizing and directing the Secretary of War to place certain persons therein named on the pension list.

*Be it enacted, &c.*, That the Secretary for the Department of War be and he is hereby directed to place upon the list of invalid pensioners of the United States the persons hereinafter named, who have been returned as such by the judges of the several districts, pursuant to the act of Congress passed the twenty-eighth day of February, one thousand seven hundred and ninety-three, entitled "An act to regulate the claims to invalid pensions," at the rates and proportions annexed to the names of the said persons respectively; that is to say:

Of the District of Maine—Daniel Brawn, a private, two-thirds of a pension; John Knowles, a private, one third of a pension; Ebenezer Phinney, a private, one fourth of a pension.

Of the District of New Hampshire—Jonas Adams, a private, one-third of a pension; Andrew Aiken, a sergeant-major, three-fourths of a pension; Caleb Aldrich, a sergeant, a full pension; Caleb Austin, a private, one-third of a pension; John Barter, a sergeant, half a pension; Archelaus Batchelder, a sergeant, half a pension; Ebenezer Bean, a private, one-third of a pension; Job Briton, a private, one-third of a pension; Ebenezer Carleton, a private, three-fourths of a pension; Levi Chubbuck, a fifer, one-fourth of a pension; Edward Clark, a sergeant, one-fourth of a pension; Morrell Coburn, a private, one-fourth of a pension; Richard Colony, a private, half a pension; Ebenezer Copp, a sergeant, a full pension; James Crombie, a lieutenant, a full pension; William Curtiss, a private, half a pension; Henry Danforth, a private, half a pension; James Dean, a private, one-fourth of a pension; Lemuel Dean, a private, half a pension; Thomas Eastman, a private, three-fourths of a pension; Ebenezer Fletcher, a fifer, one-fourth of a pension; James Ford, a captain, half a pension; Stephen Fuller a private, one-third of a pension; Moses Sweet George, a private, half a pension; Joshua Gilman, a private, two-thirds of a pension; Windsor Gleason, a private, one-fourth of a pension; Joseph Greely, a private, one-fourth of a pension; Joseph Green, a private, half a pension; Joshua Haynes, a private, half a pension; Joseph Hilton, a lieutenant, half a pension; Nathan Holt, a private, one-fourth of a pension; Jonathan Holten, a lieutenant, half a pension; Caleb Hunt, a private, half a pension; Humphrey Hunt, a private, one-fourth of a pension; Charles Huntoon, jr., a private, one-third of a pension; Zadoc Hurd, a private, one-third of a pension; Ebenezer Jennings, a sergeant, one-fourth of a pension; Peter Johnson, a private, one-fourth of a pension; Thos. Kimball, a private, one-fifth of a pension; Abm. Kimball, a private, half a pension; Benjamin Knight, a sergeant, one-third of a pension; John Knight, a private, half a pension; Jonathan Lake, a corporal, half a pension; John Lapish, a private, one-fourth of a pension; Nathaniel Leavitt, a corporal, half a pension; John Lincoln, a private, one-fourth of a pension; Joshua Lovejoy, a sergeant, half a pension; William Lowell, a sergeant,

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three-fourths of a pension; Jonathan Margery, a private, two-thirds of a pension; James Moore, a private, a full pension; Samuel Morrell, a private, two-fifths of a pension; Joseph Moss, a private, two-thirds of a pension; Jotham Nute, a sergeant, half a pension; Phinehas Parkhurst, a fifer, a full pension; Amos Pierce, a lieutenant, one-third of a pension; Silas Pierce, a lieutenant, half a pension; Joel Porter, a private, one-fourth of a pension; Samuel Potter, a sergeant, half a pension; Thomas Pratt, a private, half a pension; Jeremiah Pritchard, a lieutenant, half a pension; Asa Putney, a sergeant, half a pension; Charles Rice, a private, half a pension; John Smith, a sergeant, half a pension; Samuel Stocker, a private, half a pension; Wm. Taggart, an ensign, half a pension; Eliphalet Taylor, a private, one-third of a pension; Ebenezer Tinkham, a private, one-third of a pension; John Varnum, a private, half a pension; Edward Waldo, a lieutenant, two-thirds of a pension; Weymouth Wallace, a private, half a pension; Josiah Walton, a private, one-third of a pension; Jacob Wellman, jr., a private, one-fourth of a pension; Francis Whitcomb, a private, one-third of a pension; Robert B. Wilkins, a private, two-thirds of a pension; Jonathan Willard, an ensign, one-fourth of a pension; Seth Wyman, a private, one-fourth of a pension.

Of the District of Massachusetts—Thomas Alexander, a captain, half a pension; Ephraim Bailey, a private, half a pension; Robert Bancroft, a private, one-sixth of a pension; James Batchelder, a private, one-fourth of a pension; James Campbell, a private, one-fourth of a pension; Caleb Chadwick, a private, one-fourth of a pension; Barnabas Chapman, a private, one-third of a pension; Richard Chase, a private, half a pension; Joseph Cox, a sergeant, two-thirds of a pension; Thos. Crowell, a private, a full pension; Levi Farnsworth, a private, half a pension; Benjamin Farnum, a captain, one-third of a pension; Moses Fitch, a private, one-fifth of a pension; Frederick Follett, a private, half a pension; Joseph Frost, a private, one-eighth of a pension; Uriah Goodwin, a private, one-fourth of a pension; Joseph Hale, a private, half a pension; Gamaliel Handy, a private, two-thirds of a pension; Peter Hemeuway, a private, half a pension; Jesse Holt, a corporal, one-eighth of a pension; Job Lane, a private, half a pension; Ebenezer Learned, a colonel, one-fourth of a pension; Moses McFarland, a captain, one-third of a pension; Hugh Maxwell, a captain, one-eighth of a pension; John Maynard, a lieutenant, one-tenth of a pension; Tilley Mead, a private, one-fourth of a pension; Elisha Munsell, a private, half a pension; John Nixon, a colonel, one-third of a pension; Timothy Northam, a private, one-third of a pension; Joseph Peabody, a private, one-third of a pension; Amos Pearson, a sergeant, one-fifth of a pension; Abner Pier, a private, half a pension; Job Priest, an ensign, one-third of a pension; Amasa Scott, a private, one-fourth of a pension; Robert Smith, a private, two-thirds of a pension; Sylvanus Snow, a private, one-third of a pension; Cæsar Sprague, a private, half a pension; Samuel Warner, a private, half a pension;

William Warren, a lieutenant, one-third of a pension; Samuel Willington, a private, half a pension; Nahum Wright, a sergeant, one-eighth of a pension.

Of the District of Rhode Island—Clark Albrow, a private, one-fourth of a pension; John Baggs, jr., a sergeant, one-third of a pension; Robert Cars, a private, half a pension; Jonathan Davenport, a private, one twenty-fourth of a pension; Nathan Jacquays, a private, one-third of a pension; William Lunt, a private, half a pension; George Pople, a sergeant, one-eighth of a pension; Job Snell, a private, one-fourth of a pension; Edward Vose, a sergeant, one-sixth of a pension.

Of the district of Connecticut—Theodore Andrus, a private, a full pension; Samuel Andrus, a corporal, half a pension; William Bailey, a private, one-fourth of a pension; Robert Bailey, a private, one-fourth of a pension; Job Bartram, a captain, half a pension; Francis Baxter, a private, three-fourths of a pension; Enos Blakesley, a private, a full pension; David Blackman, a private, two-thirds of a pension; Elijah Boardman, a sergeant, three-fourths of a pension; Jonathan Bowers, a corporal, half a pension; Anor Bradley, a sergeant, half a pension; Jedediah Brown, a sergeant, one-fourth of a pension; Isaac Buel, a private, one-third of a pension; Oliver Burnham, a sergeant, one-fourth of a pension; William Burritt, a private, one-fourth of a pension; John Chappell, a private, one-third of a pension; Elisha Clark, a private, one fourth of a pension; Jonah Cook, a private, half a pension; Henry Cone, a private, one-fourth of a pension; Simon Crosby, a private, half a pension; Prince Dennison, a private, half a pension; Israel Dibble, a private, one-third of a pension; Gershom Dorman, a private, one-third of a pension; Joseph Dunbar, a corporal, three-fourths of a pension; Henry Fillmore, a private, half a pension; Samuel French, a private, half a pension; Burr Gilbert, a corporal, two-thirds of a pension; David Hall, jr., a sergeant, half a pension; Nathan Hawley, a corporal, one-third of a pension; Daniel Hewitt, a sergeant, one-third of a pension; Isaac Higgins, a private, half a pension; Thurston Hilliard, a private, one-third of a pension; Thomas Hobby, a major, half a pension; John Horseford, a private, one-eighth of a pension; Benjamin Howd, a private, three-fourths of a pension; Elijah Hoyt, a private, half a pension; David Hubble, a private, half a pension; Enoch Jacobs, a private, three-fourths of a pension; Robert Jeroine, a fifer, one-fourth of a pension; Aaron Kelsey, a lieutenant, one-fourth of a pension; Lee Lay, a captain, one-sixth of a pension; John Ledyard, a private, three-fourths of a pension; William Leeds, a lieutenant, half a pension; Naboth Lewis, a private, two-thirds of a pension; Nathaniel Lewis, a private, one-fourth of a pension; George Lord, a private, half a pension; Samuel Loomis, a corporal, one-fourth of a pension; Jeremiah Markham, a sergeant, half a pension; Allyn Marsh, a corporal, half a pension; Josiah Merryman, a corporal, two-thirds of a pension; Stephen Minor, a quarter-gunner, half a pension;



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Justus Munn, a private, half a pension; Elnathan Norton, a private, three-fourths of a pension; Joseph Otis, a private, half a pension; Thomas Parmelee, a sergeant, one eighth of a pension; Chandler Pardie, a private, seven-eighths of a pension; Frederick Platt, a private, one-third of a pension; Daniel Preston, a private, one-third of a pension; David Ranney, a private, three-fourths of a pension; Solomon Renolds, a private, two-thirds of a pension; Isaac Richards, a private, one-third of a pension; Samuel Rossetter, a private, half a pension; Elijah Royce, a private, three-fourths of a pension; Elihu Sabin, a private, half a pension; Samuel Sawyer, a private, half a pension; Nathan Scribner, a captain, one-fourth of a pension; Thomas Shepherd, a private, one-fourth of a pension; Amos Skeel, a private, one-third of a pension; Heber Smith, a sergeant, half a pension; Aaron Smith, a private, one-fourth of a pension; Edmund Smith, a private, half a pension; Josiah Spalding, a lieutenant, half a pension; Samuel Stillman, a private, half a pension; Benjamin Sturges, a private, one-sixth of a pension; Enoch Turner, jr., a private, two-thirds of a pension; Richard Watrous, a private, three-fourths of a pension; Stephen Wells, a lieutenant, half a pension; Jonathan Whaley, a private, one-fourth of a pension; Ezra Wilcox, a private, one-fourth of a pension; Azel Woodworth, a private, three-fourths of a pension.

Of the District of Vermont—Elijah Barnes, a private, one-fourth of a pension; Elijah Bennett, a private, half a pension; Gideon Brownson, a major, a full pension; Thomas Brush, a private, one-fourth of a pension; David Brydia, a private, half a pension; Nathan Burr, a private, half a pension; James Campbell, a private, half a pension; Oliver Darling, a private, five-eighths of a pension; Samuel Eyres, a private, one-fourth of a pension; Asa Gould, a private, half a pension; Benjamin Gould, a private, half a pension; Amasa Grover, a private, one-third of a pension; William Hazeltine, a private, half a pension; Jonathan Haynes, a private, two-thirds of a pension; Zimri Hill, a private, half a pension; William Hunt, a private, half a pension; Elijah Knight, a private, one-fourth of a pension; Ebenezer McIlvaine, a private, half a pension; William Martin, a private, two-thirds of a pension; Pliny Pomeroy, a private, four-fifths of a pension; Moses Saunderson, a private, two-thirds of a pension; John Stark, a captain, one-fourth of a pension; Thomas Torrance, a private, half a pension; Benjamin Tower, a private, two-thirds of a pension; William Waterman, a private, one-third of a pension; John Wilson, a sergeant, one-third of a pension.

Of the District of New York—Thomas Baldwin, a sergeant, half a pension; Abraham Blauvelt, a private, a full pension; Thomas Brooks, a private, three-fourths of a pension; Duncan Campbell, a lieutenant, half a pension; William Champenois, a private, three-fourths of a pension; Russell Chappell, a private, half a pension; Jeremiah Everett, a private, half a pension; Samuel Miller, a private, a full pension; Jared Palmer, a

sergeant, half a pension; Stephen Powell, a private, one-sixteenth of a pension; John Rogers, a private, half a pension; William Smith Scudder, a private, half a pension; James Slater, a private, half a pension; John Utters, a private, three-fourths of a pension; John Vaughn, a sergeant, one-fourth of a pension; Asa Virgil, a private, one-fourth of a pension.

Of the District of New Jersey—William Crane, a lieutenant, a full pension; William Oliver, a lieutenant, two-thirds of a pension; Joel Phelps, a private, half a pension; Samuel Taylor a corporal, two-thirds of a pension.

Of the District of Pennsylvania—John Cardiffe, a private, a full pension; Josiah Conckling, a private, half a pension; William Dewitt, a private, half a pension; Thomas Eagan, a matross, half a pension; Jacob Fox, a private, one-third of a pension; Alexander Garrett, a private, three-fourths of a pension; Samuel Gilman, (alias Gilmore,) a private, half a pension; Adam Godenberger a private, one-fourth of a pension; John Haley, a corporal, three-fourths of a pension; David Hickey, a private, a full pension; Lawrence Hipple, a private, half a pension; Nathaniel Hubble, a major, two-thirds of a pension; Philip Lauer, a sergeant, one-fourth of a pension; Charles McCormick, a private, a full pension; William McHatten, a lieutenant, a full pension; Michal Orner, a private, one-fourth of a pension; Griffith Rees, a private, half a pension; Thomas Richart, a private, a full pension; Edward Wade, a private, half a pension; Thadeus Williams, a private, one-fourth of a pension; John Wright, a sergeant, half a pension.

Of the District of Delaware—Donald McDonald, a corporal, a full pension.

Of the District of Maryland—John Bean, a private, half a pension; William Ormond, a private, three-fourths of a pension.

Of the District of Virginia—John Bell, a lieutenant, three-fourths of a pension; David Welch, a private, a full pension.

Of the District of Kentucky—James Speed, a lieutenant, a full pension.

Of the District of North Carolina—John Benton, a private, a full pension; George Bledsoe, a private, a full pension; Thomas Chiles, a captain, two-thirds of a pension; James Christian, a private, half a pension; Robert Harris, a private, a full pension; John Knowles, a private, two-thirds of a pension; James Smith, a private, a full pension.

SEC. 2. *And be it further enacted,* That the pensions allowed by this act shall be estimated in manner following, that is to say: A full pension to a commissioned officer shall be considered the one-half of his monthly pay, as by law established; and the proportions less than a full pension, shall be the like proportions of half pay. And a full pension to a non-commissioned officer or private soldier, shall be five dollars per month; and the proportions less than a full pension, shall be the like proportions of five dollars per month: *Provided,* That every commissioned officer who shall, by virtue of this act, be placed on the pen-

sion list, as entitled to a sum less than a full pension, shall receive such pension only upon compliance with the same rule respecting a return of the commutation which he may have received, as is provided for in the case of Captain David Cook, by an act of Congress passed December the sixteenth, one thousand seven hundred and ninety-one.

SEC. 3. *And be it further enacted*, That the pensioners aforesaid shall be paid in the same manner as invalid pensioners are paid, who have heretofore been placed on the list of pensioners of the United States, under such restrictions and regulations, in all respects, as are prescribed by the laws of the United States in such cases provided.

Approved, April 20, 1796.

An Act in addition to an act, entitled "An act making further provision for the support of Public Credit, and for the redemption of the Public Debt."

*Be it enacted, &c.*, That it shall be lawful for the Commissioners of the Sinking Fund, and they are hereby required, to cause the funded stock of the United States, bearing a present interest of six per centum per annum, to be reimbursed and paid in manner following, to wit: First, by dividends to be made on the last days of March, June, and September, for the present year, and from the year one thousand seven hundred and ninety-seven to the year one thousand eight hundred and eighteen, inclusive, at the rate of one and one-half per centum upon the original capital. Secondly, by dividends to be made on the last day of December for the present year, and from the year one thousand seven hundred and ninety-seven to the year one thousand eight hundred and seventeen, inclusive, at the rate of three and one-half per centum upon the original capital; and by a dividend to be made on the last day of December, in the year one thousand eight hundred and eighteen, of such a sum as will be then adequate, according to the contract, for the final redemption of the said stock.

SEC. 2. *And be it further enacted*, That it shall be lawful for the said Commissioners of the Sinking Fund, and they are hereby required, to cause the funded debt of the United States, upon which an interest of six per centum per annum will commence on the first day of January, in the year one thousand eight hundred and one, to be reimbursed and paid in manner following, to wit: First, by dividends to be made on the last days of March, June, and September, from the year one thousand eight hundred and one to the year one thousand eight hundred and twenty-four, inclusively, at the rate of one and one-half per centum upon the original capital. Secondly, by dividends to be made on the last day of December, from the year one thousand eight hundred and one to the year one thousand eight hundred and twenty-three, inclusively, at the rate of three and one-half per centum upon the original capital; and by a dividend to be made on the last day of December, in the year one thousand eight hundred and twenty-four, of such a sum as will be then adequate.

according to the contract, for the final redemption of the said stock.

SEC. 3. *And be it further enacted*, That it shall be lawful for the said Commissioners of the Sinking Fund, and they are hereby required, to cause to be reimbursed and paid, in manner before prescribed, such sum and sums, as, according to the right for that purpose reserved, may rightfully be paid for and towards the reimbursement or redemption of all such balances of the funded debt or stock of the United States, bearing a present interest of six per centum per annum, or which will bear a like interest from and after the first day of January, in the year one thousand eight hundred and one, as stand to the credit of certain States, in consequence of an act passed on the thirty-first day of May, in the year one thousand seven hundred and ninety-four; and, with the consent of the said States, such additional sums as will render the reimbursement of the said balances equal to that made upon the residue of the said stock, at the commencement of the present year.

SEC. 4. *And be it further enacted*, That, in addition to the sums already appropriated to the Sinking Fund, by the act, entitled "An act making further provision for the support of Public Credit, and for the redemption of the Public Debt," there shall be, and is hereby, in like manner, appropriated to the said fund, such a sum of the duties on goods, wares, and merchandise imported, on the tonnage of ships and vessels, and on spirits distilled in the United States, and on stills, as, with the moneys which now constitute the Sinking Fund, and shall accrue to it, in virtue of the provisions already made by law, and the interest upon the sums which shall be annually reimbursed, will be sufficient, yearly and every year, to reimburse and pay the said balances standing to the credit of certain States, in the manner hereinbefore prescribed and directed.

SEC. 5. *And be it further enacted*, That it shall be lawful for the Commissioners of the Sinking Fund to appoint a secretary, whose duty it shall be to record and preserve their proceedings and documents, and to certify copies thereof, when thereunto duly required; and the said secretary shall be allowed a compensation not exceeding two hundred and fifty dollars annually, for his services.

Approved, April 28, 1796.

An Act making an appropriation towards defraying the expenses which may arise in carrying into effect the Treaty of Amity, Commerce, and Navigation, made between the United States and the King of Great Britain.

*Be it enacted, &c.*, That, towards defraying the expenses which may arise in carrying into effect the Treaty of Amity, Commerce, and Navigation, made between the United States and the King of Great Britain, there be appropriated a sum not exceeding eighty thousand eight hundred and eight dollars, to be paid out of the duties on import and tonnage, to the end of the present year,

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not already appropriated: *Provided*, That the compensations to be allowed to any of the Commissioners appointed, or to be appointed, in pursuance of any article of the said treaty, shall not exceed, to those who shall serve in Great Britain, the rate of six thousand six hundred and sixty-seven dollars and fifty cents per annum; and to those who shall serve in the United States, the rate of four thousand four hundred and forty-five dollars per annum.

Approved, May 8, 1796.

An Act making an appropriation for defraying the expenses which may arise in carrying into effect the Treaty made between the United States and the Dey and Regency of Algiers.

*Be it enacted, &c.*, That, for the purpose of defraying the expenses of carrying into effect the Treaty made between the United States and the Dey and Regency of Algiers, the moneys arising under the revenue laws of the United States, which have been heretofore passed, not already appropriated to any other purpose, or so much thereof as may be necessary, to the amount of twenty-four thousand dollars per annum, be, and the same are hereby pledged and appropriated for the payment of the annuity stipulated in the said treaty, to be paid to the said Dey and Regency of Algiers; and to continue so pledged and appropriated, so long as the said treaty shall be in force.

Approved, May 6, 1796.

An Act making an appropriation for defraying the expenses which may arise in carrying into effect the Treaty made between the United States and the King of Spain.

*Be it enacted, &c.*, That, for the purpose of defraying the expenses which may arise in carrying into effect the Treaty made between the United States and the King of Spain, a sum not exceeding eighteen thousand six hundred and eighty-three dollars, be, and the same hereby is appropriated, to be satisfied from the duties of impost and tonnage, to the end of the present year, not heretofore appropriated: *Provided*, That the compensation to be allowed to any of the Commissioners, to be appointed in pursuance of any article of the said treaty, shall not exceed the rate of three thousand five hundred dollars per annum.

Approved, May 6, 1796.

An Act making appropriation for defraying the expenses which may arise in carrying into effect a Treaty made between the United States and certain Indian tribes northwest of the river Ohio.

*Be it enacted, &c.*, That, for the purpose of defraying the expenses which may arise in carrying into effect the Treaty made between the United States and the tribes of Indians called the Wyandots, Delawares, Shawanees, Ottawas, Chippewas, Pattawatimas, Miamis, Eel-river, Wea, Kickapoo, Piankeshaw, and Kaskaskias, at Greenville, on the third day of August, one thousand

seven hundred and ninety-five, the moneys arising under the revenue laws of the United States, which have been heretofore passed, not already appropriated to any other purpose, or so much thereof as may be necessary, be, and are hereby pledged and appropriated for the payment of the annuity stipulated in the said treaty, to be paid to the said Indian tribes; that is to say, to the Wyandots, one thousand dollars; to the Delawares, one thousand dollars; to the Shawanees, one thousand dollars; to the Ottawas, one thousand dollars; to the Chippewas, one thousand dollars; to the Pattawatimas, one thousand dollars; to the Miamis, one thousand dollars; to the Eel-river, Wea, Kickapoo, Piankeshaw, and Kaskaskias tribes, each five hundred dollars; and to continue so pledged and appropriated so long as the said treaty shall be in force. And that a further sum of one thousand five hundred dollars, out of the moneys aforesaid, be also appropriated to defray the cost of transportation, and other contingent charges which may arise from the payment of the said annuity, according to the stipulations contained in the said treaty.

Approved, May 6, 1796.

An Act authorizing a loan for the use of the City of Washington, in the District of Columbia, and for other purposes therein mentioned.

*Be it enacted, &c.*, That the Commissioners under the act, entitled "An act for establishing the temporary and permanent seat of the Government of the United States," be, and they are hereby authorized, under the direction of the President of the United States, to borrow, from time to time, such sum or sums of money, as the said President shall direct, not exceeding three hundred thousand dollars in the whole, and not exceeding two hundred thousand dollars, in any one year, at an interest not exceeding six per centum per annum, and reimbursable at any time after the year one thousand eight hundred and three, by instalments, not exceeding one-fifth of the whole sum borrowed in any one year; which said loan or loans shall be appropriated and applied by the said Commissioners in carrying into effect the above recited act, under the control of the President of the United States.

SEC. 2. *And be it further enacted*, That all the lots, except those now appropriated to public use in the said city, vested in the Commissioners aforesaid, or in trustees, in any manner, for the use of the United States, now holden and remaining unsold, shall be, and are hereby declared and made chargeable with the repayment of all and every sum and sums of money, and interest thereupon, which shall be borrowed in pursuance of this act: And to the end that the same may be fully and punctually repaid, the said lots, or so many of them as shall be necessary, shall be sold and conveyed, at such times, and in such manner, and on such terms, as the President of the United States, for the time being, shall direct: And the moneys arising from the said sales shall be applied and appropriated, under his direction, to the dis-

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charge of the said loans, after first paying the original proprietors any balances due to them respectively, according to their several conveyances, to the said Commissioners or trustees. And if the product of the sales of all the said lots shall prove inadequate to the payment of the principal and interest of the sums borrowed under this act, then the deficiency shall be paid by the United States, agreeably to the terms of the said loans; for it is expressly hereby declared and provided, that the United States shall be liable only for the repayment of the balance of the moneys to be borrowed under this act which shall remain unsatisfied by the sales of all the lots aforesaid, if any such balance shall thereafter happen.

SEC. 3. *And be it further enacted*, That every purchaser or purchasers, his or their heirs or assigns, from the said Commissioners or trustees, under the direction of the said President, of any of the lots hereinbefore mentioned, after paying the price, and fulfilling the terms stipulated and agreed to be paid and fulfilled, shall have, hold, and enjoy the said lot or lots so bought, free, clear and exonerated from the charge and incumbrance hereby laid upon the same.

SEC. 4. *And be it further enacted*, That the Commissioners aforesaid shall, semi-annually, render to the Secretary of the Treasury a particular account of the receipts and expenditures of all moneys entrusted to them, and also the progress and state of the business, and of the funds under their administration; and that the said Secretary lay the same before Congress, at every session after the receipt thereof.

Approved, May 6, 1796.

**An Act making further provision relative to the Revenue Cutters.**

*Be it enacted, &c.*, That, from and after the first day of May, in the present year, there be allowed, in lieu of the compensation now established, to the master of each revenue cutter, fifty dollars per month; to each first mate, thirty-five dollars per month; to each second mate, thirty dollars per month; to each third mate, twenty-five dollars per month; and to each mariner, not exceeding twenty dollars per month; to be paid by the collectors of the revenue, who shall be designated for that purpose.

SEC. 2. *And be it further enacted*, That all penalties, fines, and forfeitures, which may be incurred under the impost laws of the United States, and recovered in consequence of information given by any officer of a revenue cutter, shall, after deducting all proper costs and charges, be disposed of as follows: One-fourth part shall be for the use of the United States, and be paid into the Treasury thereof; one-fourth part for the officers of the customs, to be distributed in the manner now provided, relative to that part of the forfeitures they are now entitled to; and the remainder thereof to the officers of such cutter, to be divided among them in proportion to their pay.

SEC. 3. *And be it further enacted*, That the

President of the United States be, and he hereby is, authorized to cause other revenue cutters to be built or purchased, in lieu of such as are or shall, from time to time, become unfit for further service; the expense whereof, as well as all future expenses of building, purchasing or repairing revenue cutters, shall be paid out of the product of the duties on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels.

SEC. 4. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to cause such revenue cutters as as shall, from time to time, become unfit for service, to be sold at public auction, and the proceeds of such sales to be paid into the Treasury of the United States.

SEC. 5. *And be it further enacted*, That so much of this act as fixes the compensation of the officers and men on board the said cutters shall be and remain in force for the term of one year, and from thence to the end of the next session of Congress thereafter, and no longer.

Approved, May 6, 1796.

An Act to continue in force, for a limited time, an act, entitled "An act declaring the consent of Congress to an act of the State of Maryland, passed the twenty-eighth of December, one thousand seven hundred and ninety-three, for the appointment of a health officer."

*Be it enacted, &c.*, That the consent of Congress be, and is hereby, granted and declared to the operation of an act of the General Assembly of Maryland, passed the twenty-eighth of December, one thousand seven hundred and ninety-three, entitled "An act to appoint a health officer for the port of Baltimore, in Baltimore county," so far as to enable the State aforesaid to collect a duty of one cent per ton, on all vessels coming into the District of Baltimore, from a foreign voyage, for the purposes in the said act intended.

SEC. 2. *And be it further enacted*, That this act shall be in force for one year, and from thence to the end of the next session of Congress thereafter, and no longer.

Approved, May 6, 1796.

An Act to repeal so much of an act, entitled "An act to establish the Judicial Courts of the United States, as directs that alternate sessions of the Circuit Court for the District of Pennsylvania shall be holden at Yorktown; and for other purposes.

*Be it enacted, &c.*, That so much of the fifth section of the act, entitled "An act to establish the Judicial Courts of the United States," as directs that alternate sessions of the Circuit Court for the District of Pennsylvania shall be holden at Yorktown, be, and the same is hereby repealed; and that all the sessions of the said Circuit Court, shall, from and after the passing of this act, be holden at the city of Philadelphia, excepting only, when, at any session of the said court, the judges thereof shall direct the next session to be holden at Yorktown, which they are hereby au-

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thorized and empowered to do, whenever it shall appear to them to be necessary.

SEC. 2. *And be it further enacted*, That all such process of the said courts as may have issued before the passing of this act, and all recognisances returnable, and all suits and other proceedings that were continued to the said Circuit Court for the District of Pennsylvania, on the eleventh of October next, in Yorktown, shall now be returned, and held continued to the same court, on the same day, at Philadelphia. And to the end that suitors, witnesses, and all others concerned, may have notice of the alteration hereby made, the marshal of the said District of Pennsylvania is hereby required to make the same known by proclamation, on or before the first day of August next.

Approved, May 12, 1796.

An act allowing compensation for horses killed in battle belonging to officers of the army of the United States.

*Be it enacted, &c.*, That every officer in the army of the United States, whose duty requires him to be on horseback in time of action, and whose horse shall be killed in battle, be allowed a sum not exceeding two hundred dollars, as a compensation for each horse so killed.

SEC. 2. *And be it further enacted*, That the provision contained in this act shall have retrospective operation, so far as the fourth day of March, in the year one thousand seven hundred and eighty-nine: *Provided*, That no person shall receive payment for any horse so killed, until he make satisfactory proof to the Secretary at War, that the horse for which he claims compensation was actually killed under such circumstances as to entitle him to this provision, in all cases which have heretofore taken place within one year after the end of the present session of Congress; and in all cases which may take place hereafter, within one year after such horse shall have been killed.

SEC. 3. *And be it further enacted*, That the proof of the value of such horse shall be by the affidavit of the quartermaster of the corps to which the owner may belong, or of two other credible witnesses.

Approved, May 12, 1796.

An Act declaring the consent of Congress to a certain act of the State of Maryland, and to continue an act declaring the assent of Congress to certain acts of the States of Maryland, Georgia, and Rhode Island and Providence Plantations, so far as the same respects the States of Georgia, and Rhode Island and Providence Plantations.

*Be it enacted, &c.*, That the consent of Congress be, and is hereby granted and declared to the operation of an act of the General Assembly of Maryland, made and passed at a session begun and held at the city of Annapolis, on the first Monday of November, in the year one thousand seven hundred and ninety-one, entitled "An act empowering the wardens of the port of Baltimore to levy and collect the duty therein mentioned."

SEC. 2. *And be it further enacted*, That the act, entitled "An act declaring the assent of Congress to certain acts of the States of Maryland, Georgia, and Rhode Island and Providence Plantations," shall be continued, and is hereby declared to be in full force, so far as the same respects the States of Georgia, and Rhode Island and Providence Plantations.

SEC. 3. *And be it further enacted*, That this act shall be and continue in force for the term of three years, and from thence to the end of the next session of Congress thereafter, and no longer.

Approved, May 12, 1796.

An Act authorizing the erection of a Lighthouse on Cape Cod, in the State of Massachusetts.

*Be it enacted, &c.*, That it shall be the duty of the Secretary of the Treasury to provide, by contract, which shall be approved by the President of the United States, for building a lighthouse on Cape Cod, in the State of Massachusetts, (as soon as the necessary cession of land for the purpose shall be made by the said State to the United States;) and to furnish the same with all necessary supplies: And also to agree for the salaries or wages of the person, or persons, who may be appointed by the President for the superintendence and care of the same: And that the number or disposition of the light or lights in the said lighthouse, be such as may tend to distinguish it from others, as far as is practicable; and that the light or lights on Gurnet-head, at the entrance of Plymouth harbor, be altered or diminished, if necessary: And that eight thousand dollars be appropriated for the same out of any moneys not otherwise appropriated.

Approved, May 17, 1796.

An Act to authorize Ebenezer Zane to locate certain lands in the Territory of the United States north-west of the river Ohio.

*Be it enacted, &c.*, That, upon the conditions hereinafter mentioned, there shall be granted to Ebenezer Zane three tracts of land, not exceeding one mile square each, one on the Muskingum river, one on Hockhocking river, and one other on the north bank of Sciota river, and in such situations as shall best promote the utility of a road to be opened by him on the most eligible route between Wheeling and Limestone, to be approved by the President of the United States, or such person as he shall appoint for that purpose: *Provided*, such tracts shall not interfere with any existing claim, location, or survey; nor include any salt-spring, nor the lands on either side of the river Hockhocking at the falls thereof.

SEC. 2. *And be it further enacted*, That, upon the said Zane's procuring at his own expense the said tracts to be surveyed in such way and manner as the President of the United States shall approve, and returning into the Treasury of the United States plats thereof, together with warrants granted by the United States for military land bounties to the amount of the number of acres contained in the said three tracts: and

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also producing satisfactory proof, by the first day of January next, that the aforesaid road is opened and ferries established upon the rivers aforesaid, for the accommodation of travelers, and giving security that such ferries shall be maintained, during the pleasure of Congress, the President of the United States shall be, and he hereby is, authorized and empowered to issue letters patent, in the name and under the seal of the United States, thereby granting and conveying to the said Zane and his heirs the said tracts of land located and surveyed as aforesaid; which patents shall be countersigned by the Secretary of State and recorded in his office: *Provided always*, That the rates of ferriage at such ferries shall, from time to time, be ascertained by any two of the Judges of the Territory northwest of the river Ohio, or such other authority as shall be appointed for that purpose.

Approved, May 17, 1796.

An Act providing for the sale of Lands of the United States in the Territory northwest of the river Ohio, and above the mouth of Kentucky river.

*Be it enacted, &c.*, That a Surveyor General shall be appointed, whose duty it shall be to engage a sufficient number of skilful surveyors, as his deputies, whom he shall cause, without delay, to survey and mark the unascertained outlines of the lands lying northwest of the river Ohio, and above the mouth of the river Kentucky, in which the titles of the Indian tribes have been extinguished, and to divide the same in the manner hereinafter directed; he shall have authority to frame regulations and instructions for the government of his deputies; to administer the necessary oaths upon their appointment; and to remove them for negligence or misconduct in office.

SEC. 2. *Be it further enacted*, That the part of the said lands, which has not been already conveyed by letters patent, or divided, in pursuance of an ordinance in Congress, passed on the twentieth of May, one thousand seven hundred and eighty-five, or which has not been heretofore, and, during the present session of Congress, may not be appropriated for satisfying military land bounties, and for other purposes, shall be divided by north and south lines, run according to the true meridian, and by others crossing them at right angles, so as to form townships of six miles square, unless where the line of the late Indian purchase, or of tracts of land heretofore surveyed or patented, or the course of navigable rivers may render it impracticable; and then this rule shall be departed from no further than such particular circumstances may require. The corners of the townships shall be marked with progressive numbers from the beginning; each distance of a mile between the said corners shall be also distinctly marked with marks different from those at the corners. One-half of the said townships, taking them alternately, shall be sub-divided into sections, containing, as nearly as may be, six hundred and forty acres each, by running through the same, each way, parallel lines, at the end of every two miles; and by marking a corner, on each of the

said lines, at the end of every mile; the sections shall be numbered respectively, beginning with the number one, in the northern section, and proceeding west and east alternately, through the township, with progressive numbers, till the thirty-sixth be completed. And it shall be the duty of the deputy surveyors, respectively, to cause to be marked, on a tree near each corner, made as aforesaid, and within the section, the number of such section, and over it, the number of the township, within which such section may be; and the said deputies shall carefully note, in their respective field books, the names of the corner trees marked, and the numbers so made. The fractional parts of townships shall be divided into sections, in manner aforesaid, and the fractions of sections shall be annexed to, and sold with, the adjacent entire sections. All lines shall be plainly marked upon trees, and measured with chains containing two perches of sixteen feet and one-half each, sub-divided into twenty-five equal links, and the chain shall be adjusted to a standard to be kept for that purpose. Every surveyor shall note in his field book, the true situations of all mines, salt licks, salt springs, and mill seats, which shall come to his knowledge; all water courses, over which, the line he runs shall pass; and also the quality of the lands. These field books shall be returned to the Surveyor General, who shall therefrom cause a description of the whole lands surveyed, to be made out and transmitted to the officers who may superintend the sales. He shall also cause a fair plat to be made of the townships, and fractional parts of townships, contained in the said lands, describing the sub-divisions thereof, and the marks of the corners. This plat shall be recorded in books to be kept for that purpose; a copy thereof shall be kept open at the Surveyor General's office, for public information; and other copies sent to the places of the sale, and to the Secretary of the Treasury.

SEC. 3. *Be it further enacted*, That a salt spring lying upon a creek which empties into the Sciota river, on the east side, together with as many contiguous sections as shall be equal to one township, and every other salt spring which may be discovered, together with the section of one mile square which includes it, and also four sections at the centre of every township, containing each one mile square, shall be reserved, for the future disposal of the United States. But there shall be no reservations, except for salt springs, in fractional townships, where the fraction is less than three fourths of a township.

SEC. 4. *Be it further enacted*, That, whenever seven ranges of townships shall have been surveyed below the Great Miami, or between the Sciota river and the Ohio company's purchase, or southern boundary of the Connecticut claims and the ranges already laid off, beginning upon the Ohio river and extending westwardly, and the plats thereof made and transmitted, in conformity to the provisions of this act, the said sections of six hundred and forty acres, (excluding those hereby reserved,) shall be offered for sale, at public vendue, under the direction of the Governor,



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or Secretary of the Western Territory, and the Surveyor General; such of them as lie below the Great Miami, shall be sold at Cincinnati; those of them which lie between the Sciota and the Ohio company's purchase, at Pittsburg; and those between the Connecticut claim and the seven ranges, at Pittsburg. And the townships remaining undivided shall be offered for sale, in the same manner at the seat of Government of the United States, under the direction of the Secretary of the Treasury, in tracts of one quarter of a township, lying at the corners thereof, excluding the four central sections, and the other reservations before mentioned: *Provided always*, That no part of the lands directed by this act to be offered for sale, shall be sold for less than two dollars per acre.

SEC. 5. *Be it further enacted*, That the Secretary of the Treasury, after receiving the aforesaid plats, shall forthwith give notice, in one newspaper of each of the United States, and of the Territories northwest and south of the river Ohio, of the times of sale; which shall, in no case, be less than two months from the date of the notice, and the sales at the different places shall not commence, within less than one month of each other. And when the Governor of the Western Territory, or Secretary of the Treasury, shall find it necessary to adjourn, or suspend the sales under their direction, respectively, for more than three days, at any one time, notice shall be given, in the public newspapers, of such suspension, and at what time, the sales will recommence.

SEC. 6. *Be it further enacted*, That immediately after the passing of this act, the Secretary of the Treasury shall, in the manner hereinbefore directed, advertise for sale, the lands remaining unsold in the seven ranges of townships, which were surveyed, in pursuance of an ordinance of Congress, passed the twentieth of May, one thousand seven hundred and eighty-five, including the lands drawn for the army, by the late Secretary of War, and also those heretofore sold, but not paid for; the townships which by the said ordinance are directed to be sold entire, shall be offered for sale, at public vendue in Philadelphia, under the direction of the Secretary of the Treasury, in quarter townships, reserving the four centre sections, according to the directions of this act. The townships which, by the said ordinance, are directed to be sold in sections, shall be offered for sale at public vendue, in Pittsburg, under the direction of the Governor or Secretary of the Western Territory, and such person, as the President may specially appoint for that purpose, by sections of one mile square each, reserving the four centre sections, as aforesaid; and all fractional townships shall also be sold in sections, at Pittsburg, in the manner and under the regulations provided by this act for the sale of fractional townships: *Provided always*, That nothing in this act shall authorize the sale of those lots which have been heretofore reserved in the townships already sold.

SEC. 7. *Be it further enacted*, That the highest bidder for any tract of land, sold by virtue of

this act, shall deposit, at the time of sale, one twentieth part of the amount of the purchase money; to be forfeited, if a moiety of the sum bid, including the said twentieth part, is not paid within thirty days to the Treasurer of the United States, or to such person as shall be appointed by the President of the United States to attend the places of sale for that purpose; and upon payment of a moiety of the purchase money, within thirty days, the purchaser shall have one year's credit for the residue; and shall receive from the Secretary of the Treasury, or the Governor of the Western Territory (as the case may be) a certificate describing the land sold, the sum paid on account, the balance remaining due, the time when such balance becomes payable; and that the whole land sold will be forfeited, if the said balance is not then paid; but that if it shall be duly discharged, the purchaser, or his assignee, or other legal representative, shall be entitled to a patent for the said lands. And on payment of the said balance to the Treasurer, within the specified time, and producing to the Secretary of State a receipt for the same, upon the aforesaid certificate, the President of the United States is hereby authorized to grant a patent for the lands to the said purchaser, his heirs or assigns. And all patents shall be countersigned by the Secretary of State, and recorded in his office. But if there should be a failure in any payment, the sale shall be void, all the money therefore paid on account of the purchase shall be forfeited to the United States, and the lands thus sold shall be again disposed of, in the same manner as if a sale had never been made: *Provided, nevertheless*, That should any purchaser make payment of the whole purchase money, at the time when the payment of the first moiety is directed to be made, he shall be entitled to a deduction of ten per centum on the part for which a credit is hereby directed to be given; and his patent shall be immediately issued.

SEC. 8. *Be it further enacted*, That the Secretary of the Treasury, and the Governor of the Territory northwest of the river Ohio, shall, respectively, cause books to be kept, in which shall be regularly entered an account of the dates of all the sales made, the situation and numbers of the lots sold, the price at which each was struck off, the money deposited at the time of sale, and the dates of the certificates granted to the different purchasers. The Governor or Secretary of the said Territory shall, at every suspension or adjournment, for more than three days, of the sales under their direction, transmit to the Secretary of the Treasury a copy of the said books, certified to have been duly examined and compared with the original. And all tracts sold under this act shall be noted upon the general plat, after the certificate has been granted to the purchaser.

SEC. 9. *And be it further enacted*, That all navigable rivers, within the Territory to be disposed of by virtue of this act, shall be deemed to be and remain public highways. And that in all cases, where the opposite banks of any stream, not navigable, shall belong to different persons,

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the stream and the bed thereof shall become common to both.

SEC. 10. *And be it further enacted*, That the Surveyor General shall receive, for his compensation, two thousand dollars per annum; and that the President of the United States may fix the compensation of the assistant surveyors, chain carriers, and axe-men: *Provided*, That the whole expense of surveying and marking the lines, shall not exceed three dollars per mile, for every mile that shall be actually run or surveyed.

SEC. 11. *And be it further enacted*, That the following fees shall be paid for the services to be done under this act, to the Treasurer of the United States, or to the receiver in the Western Territory, as the case may be: for each certificate for a tract containing a quarter of a township, twenty dollars; for a certificate for a tract containing six hundred and forty acres, six dollars; and for each patent for a quarter of a township, twenty dollars; for a section of six hundred and forty acres, six dollars. And the said fees shall be accounted for by the receivers, respectively.

SEC. 12. *And be it further enacted*, That the Surveyor General, assistant surveyors, and chain carriers shall, before they enter on the several duties to be performed under this act, severally take an oath or affirmation, faithfully to perform the same; and the person to be appointed to receive the money on sales in the Western Territory, before he shall receive any money under this act, shall give bond with sufficient security, for the faithful discharge of his trust. That, for receiving, safe-keeping, and conveying to the Treasury, the money he may receive, he shall be entitled to a compensation, to be hereafter fixed.

Approved, May 18, 1796.

An Act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers.

*Be it enacted, &c.*, That the following boundary line, established by treaty between the United States and various Indian tribes, shall be clearly ascertained, and distinctly marked in all such places as the President of the United States shall deem necessary, and in such manner as he shall direct, to wit: Beginning at the mouth of Cuyahoga river, on Lake Erie, and running thence up the same, to the portage between that and the Tuscaroras branch of the Muskingum; thence, down that branch, to the crossing-place above Fort Lawrence; thence, westerly, to a fork of that branch of the Great Miami river running into the Ohio, at or near which fork stood Laramie's store, and where commences the portage, between the Miami of the Ohio, and Saint Mary's river, which is a branch of the Miami which runs into Lake Erie; thence, a westerly course to Fort Recovery, which stands on a branch of the Wabash; thence, southwesterly, in a direct line to the Ohio, so as to intersect that river, opposite the mouth of Kentucky or Cuttawba river; thence, down the said river Ohio, to the tract of one hundred and fifty thousand acres, near the rapids of the Ohio, which has been assigned to General

Clarke, for the use of himself and his warriors; thence, around the said tract, on the line of the said tract, till it shall again intersect the said river Ohio; thence, down the same, to a point opposite the high lands or ridge between the mouth of the Cumberland and Tennessee rivers; thence, easterly on the said ridge to a point, from whence a southwest line will strike the mouth of Duck river; thence, still easterly on the said ridge, to a point forty miles above Nashville; thence, northeast, to Cumberland river; thence, up the said river, to where the Kentucky road crosses the same; thence, to the top of Cumberland mountain; thence, along Campbell's line, to the river Clinch; thence, down the said river, to a point from which a line shall pass the Holsten, at the ridge which divides the waters running into Little river, from those running into the Tennessee; thence, south, to the North Carolina boundary; thence, along the South Carolina Indian boundary, to and over the Oconna mountain, in a southwest course, to Tugelo river; thence, in a direct line, to the top of the Currahee mountain, where the Creek line passes it; thence, to the head or source of the main south branch of the Oconee river, called the Appalachee; thence, down the middle of the said main south branch and river Oconee, to its confluence with Oakmulgee, which forms the river Altamaha; thence, down the middle of the said Altamaha, to the old line on the said river; and thence, along the said old line, to the river Saint Mary's: *Provided always*, That if the boundary line between the said Indian tribes and the United States, shall at any time hereafter be varied by any treaty which shall be made between the said Indian tribes and the United States, then all the provisions contained in this act shall be construed to apply to the said line so to be varied in the same manner as the said provisions now apply to the boundary line hereinbefore recited.

SEC. 2. *And be it further enacted*, That if any citizen of, or other person resident in the United States, or either of the territorial districts of the United States, shall cross over, or go within the said boundary line, to hunt, or in anywise destroy the game; or shall drive, or otherwise convey any stock of horses or cattle to range, on any lands allotted or secured by treaty with the United States, to any Indian tribes, he shall forfeit a sum not exceeding one hundred dollars, or be imprisoned not exceeding six months.

SEC. 3. *And be it further enacted*, That if any such citizen, or other person, shall go into any country which is allotted or secured by treaty as aforesaid, to any of the Indian tribes south of the river Ohio, without a passport first had and obtained from the Governor of some one of the United States, or the officer of the troops of the United States commanding at the nearest post on the frontiers, or such other person as the President of the United States may from time to time authorize to grant the same, shall forfeit a sum not exceeding fifty dollars, or be imprisoned, not exceeding three months.

SEC. 4. *And be it further enacted*, That if

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any such citizen, or other person, shall go into any town, settlement, or territory, belonging, or secured by treaty with the United States, to any nation or tribe of Indians, and shall there commit robbery, larceny, trespass, or other crime, against the person or property of any friendly Indian or Indians, which would be punishable, if committed within the jurisdiction of any State, against a citizen of the United States; or, unauthorized by law, and with a hostile intention, shall be found on any Indian land, such offender shall forfeit a sum not exceeding one hundred dollars, and be imprisoned not exceeding twelve months; and shall, also, when property is taken or destroyed, forfeit and pay to such Indian or Indians, to whom the property taken and destroyed belongs, a sum equal to twice the just value of the property so taken or destroyed; and if such offender shall be unable to pay a sum at least equal to the said just value, whatever such payment shall fall short of the said just value, shall be paid out of the Treasury of the United States: *Provided, nevertheless,* That no such Indian shall be entitled to any payment out of the Treasury of the United States for any such property taken or destroyed, if he, or any of the nation to which he belongs, shall have sought private revenge, or attempted to obtain satisfaction by any force or violence.

SEC. 5. *And be it further enacted,* That if any such citizen, or other person, shall make a settlement on any lands belonging, or secured, or granted by treaty with the United States, to any Indian tribe, or shall survey, or attempt to survey, such lands, or designate any of the boundaries, by marking trees, or otherwise, such offender shall forfeit all his right, title, and claim, if any he hath, of whatsoever nature or kind the same shall or may be, to the lands aforesaid, whereupon he shall make a settlement, or which he shall survey, or attempt to survey, or designate any of the boundaries thereof, by marking trees or otherwise, and shall also forfeit a sum not exceeding one thousand dollars, and suffer imprisonment not exceeding twelve months. And it shall, moreover, be lawful for the President of the United States to take such measures and to employ such military force, as he may judge necessary, to remove from lands belonging, or secured by treaty, as aforesaid, to any Indian tribe, any such citizen or other person, who has made or shall hereafter make, or attempt to make, a settlement thereon; and every right, title, or claim, forfeited under this act, shall be taken and deemed to be vested in the United States, upon conviction of the offender, without any other or further proceeding.

SEC. 6. *And be it further enacted,* That if any such citizen, or other person, shall go into any town, settlement, or territory, belonging to any nation or tribe of Indians, and shall there commit murder, by killing any Indian or Indians belonging to any nation or tribe of Indians in amity with the United States, such offender, on being thereof convicted, shall suffer death.

SEC. 7. *And be it further enacted,* That no such citizen, or other person, shall be permitted to reside at any of the towns or hunting camps, of any

of the Indian tribes as a trader, without a license under the hand and seal of the superintendent of the department, or of such other person as the President of the United States shall authorize to grant licenses for that purpose; which superintendent, or person authorized, shall, on application, issue such license, for a term not exceeding two years, who shall enter into bond with one or more sureties, approved of by the superintendent, or person issuing such license, or by the President of the United States, in the penal sum of one thousand dollars, conditioned for the true and faithful observance of such regulations and restrictions as are or shall be made for the government of trade and intercourse with the Indian tribes: and the superintendent, or person issuing such license, shall have full power and authority to recall the same, if the person so licensed shall transgress any of the regulations or restrictions, provided for the government of trade and intercourse with the Indian tribes; and shall put in suit such bonds as he may have taken, on the breach of any condition therein contained.

SEC. 8. *And be it further enacted,* That any such citizen, or other person, who shall attempt to reside in any town or hunting camp of any of the Indian tribes as a trader, without such license, shall forfeit all the merchandise offered for sale to the Indians, or found in his possession, and shall, moreover, be liable to a fine not exceeding one hundred dollars, and to imprisonment not exceeding thirty days.

SEC. 9. *And be it further enacted,* That if any such citizen, or other person, shall purchase, or receive of any Indian, in the way of trade or barter, a gun, or other article commonly used in hunting, any instrument of husbandry, or cooking utensil, of the kind usually obtained by the Indians in their intercourse with white people, or any article of clothing, except skins or furs, he shall forfeit a sum not exceeding fifty dollars, and be imprisoned not exceeding thirty days.

SEC. 10. *And be it further enacted,* That no such citizen, or other person, shall be permitted to purchase any horse of an Indian, or of any white man in the Indian territory, without special license for that purpose; which license, the superintendent, or such other person as the President shall appoint, is hereby authorized to grant, on the same terms, conditions, and restrictions, as other licenses are to be granted under this act. And any such person who shall purchase a horse or horses under such license, before he exposes such horse or horses for sale, and within fifteen days after they have been brought out of the Indian country, shall make a particular return to the superintendent, or other person, from whom he obtained his license, of every horse purchased by him, as aforesaid; describing such horses by their color, height, and other natural or artificial marks, under the penalty contained in their respective bonds. And every such person purchasing a horse or horses, as aforesaid, in the Indian country, without a special license, shall, for every horse thus purchased and brought into any settlement of citizens of the United States, forfeit a sum not exceed-

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ing one hundred dollars, and be imprisoned not exceeding thirty days. And every person who shall purchase a horse, knowing him to be brought out of the Indian territory, by any person or persons not licensed as above to purchase the same, shall forfeit the value of such horse.

SEC. 11. *And be it further enacted,* That no agent, superintendent, or other person, authorized to grant a license to trade or purchase horses, shall have any interest or concern in any trade with the Indians, or in the purchase or sale of any horse to or from any Indian, excepting for and on account of the United States. And any person offending herein, shall forfeit a sum not exceeding one thousand dollars, and be imprisoned not exceeding twelve months.

SEC. 12. *And be it further enacted,* That no purchase, grant, lease, or other conveyance of lands, or of any title or claim thereto, from any Indian, or nation, or tribe of Indians, within the bounds of the United States, shall be of any validity in law or equity, unless the same be made by treaty or convention, entered into pursuant to the Constitution. And it shall be a misdemeanor in any person not employed under the authority of the United States, to negotiate such treaty or convention, directly or indirectly, to treat with any such Indian nation or tribe of Indians, for the title or purchase of any lands by them held or claimed, punishable by fine not exceeding one thousand dollars, and imprisonment not exceeding twelve months: *Provided, nevertheless,* That it shall be lawful for the agent or agents of any State who may be present at any treaty held with Indians under the authority of the United States, in the presence and with the approbation of the commissioner or commissioners of the United States, appointed to hold the same, to propose to, and adjust with the Indians, the compensation to be made for their claims to the lands within such State, which shall be extinguished by the treaty.

SEC. 13. *And be it further enacted,* That, in order to promote civilization among the friendly Indian tribes, and to secure the continuance of their friendship, it shall be lawful for the President of the United States to cause them to be furnished with useful domestic animals, and implements of husbandry, and with goods or money, as he shall judge proper, and to appoint such persons from time to time, as temporary agents, to reside among the Indians, as he shall think fit: *Provided,* That the whole amount of such presents and allowance to such agents, shall not exceed fifteen thousand dollars per annum.

SEC. 14. *And be it further enacted,* That if any Indian or Indians belonging to any tribe in amity with the United States, shall come over or cross the said boundary line, into any State or territory inhabited by citizens of the United States, and there take, steal, or destroy, any horse, horses, or other property, belonging to any citizen or inhabitant of the United States, or of either of the territorial districts of the United States, or shall commit any murder, violence, or outrage, upon an such citizen or inhabitant, it shall be the duty

of such citizen or inhabitant, his representative, attorney, or agent, to make application to the superintendent, or such other person as the President of the United States shall authorize for that purpose; who, upon being furnished with the necessary documents and proofs, shall, under the direction or instruction of the President of the United States, make application to the nation or tribe to which such Indian or Indians shall belong, for satisfaction; and if such nation or tribe shall neglect or refuse to make satisfaction in a reasonable time, not exceeding eighteen months, then it shall be the duty of such superintendent or other person authorized, as aforesaid, to make return of his doings to the President of the United States, and forward to him all the documents and proofs in the case, that such further steps may be taken, as shall be proper to obtain satisfaction for the injury; and in the meantime, in respect to the property so taken, stolen, or destroyed, the United States guarantee to the party injured an eventual indemnification: *Provided, always,* That if such injured party, his representative, attorney, or agent, shall in any way violate any of the provisions of this act, by seeking, or attempting to obtain private satisfaction or revenge, by crossing over the line, on any of the Indian lands, he shall forfeit all claim upon the United States for such indemnification: *And provided, also,* That nothing herein contained shall prevent the legal apprehension or arresting within the limits of any State or district of any Indian having so offended: *And provided, further,* That it shall be lawful for the President of the United States to deduct such sum or sums as shall be paid for the property taken, stolen, or destroyed by any such Indian, out of the annual stipend which the United States are bound to pay to the tribe to which such Indian shall belong.

SEC. 15. *And be it further enacted,* That the superior courts in each of the said territorial districts, and the circuit courts, and other courts of the United States of similar jurisdiction in criminal causes, in each district of the United States, in which any offender against this act shall be apprehended, or agreeably to the provisions of this act, shall be brought for trial, shall have, and are hereby invested with full power and authority to hear and determine all crimes, offences, and misdemeanors, against this act; such courts proceeding therein in the same manner, as if such crimes, offences, and misdemeanors, had been committed within the bounds of their respective districts: and in all cases where the punishment shall not be death, the county courts of quarter sessions in the said territorial districts, and the district courts of the United States in their respective districts, shall have, and are hereby invested with, like power to hear and determine the same, any law to the contrary notwithstanding: and in all cases where the punishment shall be death, it shall be lawful for the Governor of either of the territorial districts, where the offender shall be apprehended, or into which he shall be brought for trial, to issue a commission of oyer and terminer to the superior judges of such district, who shall have full power

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and authority to hear and determine all such capital cases, in the same manner as the superior courts of such district have in their ordinary sessions: and when the offender shall be apprehended, or brought for trial, into any of the United States, except Kentucky, it shall be lawful for the President of the United States to issue a like commission to any one or more judges of the Supreme Court of the United States, and the judge of the district in which such offender may have been apprehended, or shall have been brought for trial; which judges, or any two of them, shall have the same jurisdiction in such capital cases as the circuit court of such district, and shall proceed to trial and judgment in the same manner as such circuit court might or could do. And the district courts of Kentucky and Maine shall have jurisdiction of all crimes, offences, and misdemeanors, committed against this act, and shall proceed to trial and judgment, in the same manner as the circuit courts of the United States.

SEC. 16. *And be it further enacted*, That it shall be lawful for the military force of the United States, to apprehend every person who shall or may be found in the Indian country over and beyond the said boundary line between the United States and the said Indian tribes, in violation of any of the provisions or regulations of this act, and him or them immediately to convey in the nearest convenient and safe route, to the civil authority of the United States, in some one of the three next adjoining States or districts, to be proceeded against in due course of law: *Provided*, That no person apprehended by military force as aforesaid, shall be detained longer than ten days after the arrest and before removal.

SEC. 17. *And be it further enacted*, That if any person who shall be charged with a violation of any of the provisions or regulations of this act, shall be found within any of the United States, or either of the territorial districts of the United States, such offender may be there apprehended and brought to trial, in the same manner as if such crime or offence had been committed within such State or district; and it shall be the duty of the military force of the United States, when called upon by the civil magistrate or any proper officer, or other person duly authorized for that purpose and having a lawful warrant, to aid and assist such magistrate, officer, or other person authorized as aforesaid in arresting such offender, and him committing to safe custody, for trial according to law.

SEC. 18. *And be it further enacted*, That the amount of fines and duration of imprisonment directed by this act as a punishment for the violation of any of the provisions thereof, shall be ascertained and fixed, not exceeding the limits prescribed, in the discretion of the court before whom the trial shall be had; and that all fines and forfeitures which shall accrue under this act shall be one half to the use of the informant and the other half to the use of the United States; except where the prosecution shall be first instituted on behalf of the United States, in which case the whole shall be to their use.

SEC. 19. *And be it further enacted*, That nothing in this act shall be construed to prevent any trade or intercourse with Indians living on lands surrounded by settlements of the citizens of the United States, and being within the ordinary jurisdiction of any of the individual States; or the unmolested use of a road from Washington district to Mero district, and of the navigation of the Tennessee river, as reserved and secured by treaty.

SEC. 20. *And be it further enacted*, That the President of the United States be and he is hereby authorized to cause to be clearly ascertained and distinctly marked, in all such places as he shall deem necessary, and in such manner as he shall direct, any other boundary lines between the United States and any Indian tribe which now are or hereafter may be established by treaty.

SEC. 21. *And be it further enacted*, That all and every other act and acts, coming within the purview of this act, shall be and they are hereby repealed: *Provided nevertheless*, That all disabilities that have taken place shall continue and remain, all penalties and forfeitures that have been incurred may be recovered, and all prosecutions and suits that may have been commenced may be prosecuted to final judgment under the said act or acts, in the same manner as if the said act or acts were continued and in full force and virtue.

SEC. 22. *And be it further enacted*, That this act shall be in force for the term of two years, and from thence to the end of the session of Congress next thereafter, and no longer.

Approved, May 19, 1796.

An Act relative to quarantine.

*Be it enacted, &c.*, That the President of the United States be and he is hereby authorized to direct the revenue officers and the officers commanding forts and revenue cutters, to aid in the execution of quarantine, and also in the execution of the health laws of the States respectively, in such manner as may to him appear necessary.

Approved, May 27, 1796.

An Act altering the compensation of the Accountant of the War Department.

*Be it enacted, &c.*, That there shall hereafter be allowed to the Accountant of the Department of War, the sum of one thousand six hundred dollars per annum, as a compensation for his services, in lieu of the compensation heretofore allowed.

SEC. 2. *And be it further enacted*, That all letters and packets to and from the Accountant of the Department of War, shall be conveyed by post, free of postage, under such restrictions as are provided by law in like cases.

Approved, May 27, 1796.

An Act respecting the Mint.

*Be it enacted, &c.*, That there shall be appropriated for the purchase of copper for the further



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coinage of cents and half cents, a sum equal to the amount of the cents and half cents which shall have been coined at the Mint and delivered to the Treasurer of the United States, subsequent to the first day of January, one thousand seven hundred and ninety-six; which sum shall be payable out of any moneys in the Treasury not otherwise appropriated.

Sec. 2. *And be it further enacted*, That, from and after the passing of this act, there shall be retained from every deposit in the Mint of gold or silver bullion below the standard of the United States, such sum as shall be equivalent to the expense incurred in refining the same; and an accurate account of such expense on every deposit shall be kept, and of the sums retained on account of the same, which shall be accounted for by the Treasurer of the Mint to the Treasurer of the United States.

Sec. 3. *And be it further enacted*, That this act shall continue in force for the term of two years from the passing thereof, and from thence until the end of the next session of Congress thereafter holden, and no longer.

Approved, May 27, 1796.

An Act altering the sessions of the Circuit Courts in the districts of Vermont and Rhode Island, and for other purposes.

*Be it enacted, &c.*, That, from and after the first day of June next, the Circuit Court for the district of Vermont shall be held at Rutland and Windsor alternately, beginning with the former, on the seventh day of November and on the twelfth day of May annually: *Provided*, when either of those days shall be Sunday the court shall be held on the day following.

Sec. 2. *And be it further enacted*, That the fall session of the Circuit Court for the district of Rhode Island shall be held on the nineteenth day of November, with the exception for Sunday, as is provided in the preceding section.

Sec. 3. *And be it further enacted*, That the District Court for the district last aforesaid, instead of the several days heretofore prescribed, shall be held annually, on the first Tuesday of August, the third Tuesday of November, the first Tuesday of February, and the second Tuesday of May.

Sec. 4. *And be it further enacted*, That all writs and processes, of whatever name or description, which may have issued from either of the courts before mentioned, or which shall hereafter issue, the return of which will be interrupted by this act, shall be returned to the terms of the courts respectively next succeeding the terms to which they were made returnable. And the said writs and processes before mentioned, together with all matters and business depending before either of the courts before mentioned, shall be taken up and proceeded upon to final issue and determination, in the same manner and to the same effect as if no alteration had been made in the times or places of holding the said courts respectively.

Approved, May 27, 1796.

An Act in addition to an act, entitled "An act supplementary to the act, entitled 'An act to provide more effectually for the collection of the duties on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels.'"

*Be it enacted, &c.*, That, from and after the last day of June next, there shall be established the following new districts and ports of delivery, to wit: in the State of Massachusetts, a district to be called the district of Ipswich, which shall include the waters and shores within the said town of Ipswich, which shall be the sole port of entry of the same; and a collector shall be appointed to reside in the said town of Ipswich, and thenceforward the office of surveyor for the said port shall cease. In the State of New Jersey, a district to be called the district of Little Egg harbor, which shall comprehend all the shores, waters, bays, rivers, and creeks, from Barnegat inlet to Brigantine inlet, both inclusively; and the town of Tuckerton shall be the sole port of entry for the said district; and a collector for the same shall be appointed to reside at the said town of Tuckerton, and thenceforward the office of surveyor for the said port of Little Egg harbor shall cease. In the State of Maryland, a district to be called the district of Havre de Grace, which shall include all the shores and waters of the Chesapeake bay, above Turkey point and Spes Utiae island; and a collector shall be appointed to reside at Havre de Grace, which shall be the sole port of entry for the same. In the district of Newburyport the town of Newbury shall be a port of delivery. In the district of Dighton the towns of Berkley and Taunton shall be ports of delivery.

Sec. 2. *And be it further enacted*, That, from and after the last day of June next, the district of Hudson, in the State of New York, shall be confined to the limits of the city of Hudson; and all other places which were, by the act, entitled "An act supplementary to the act, entitled 'An act to provide more effectually for the collection of the duties on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels,'" included in the said district of Hudson, shall be annexed to the district of New York. And the description of the district of Waldoborough in the said recited act shall be so far altered as, instead of saying "a place called Duck-trap," to say, "that part of a place called Duck-trap, which lies between the towns of Camden and Northport." and, instead of saying, "all the shores and waters from the middle of Damarascotty river to Duck-trap," to say, "all the shores and waters from the middle of Damarascotty river to the southwardly side of the town of Northport." That in the State of Maryland the district of Cedar point shall be called the district of Nanjemoy, which shall be the sole port of entry and delivery for the said district; and the collector shall reside at Nanjemoy. And that in the district of Nantucket, in the State of Massachusetts, the name of the port of Sherburne shall be changed to the port of



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Nantucket: *Provided always*, That no alteration in the name or description of the said districts shall be construed to affect the compensation of the officers thereof.

SEC. 3. *And be it further enacted*, That the collectors to be appointed in conformity with this act, shall each become bound in the sum of two thousand dollars, in manner as is by law provided in like cases, and the same duties, authorities, and fees of office, with a similar distribution thereof, shall appertain to those appointments as are now in like cases authorized by law. And the collectors aforesaid shall each receive two per centum on all moneys by them respectively received; and shall also respectively receive the allowance of one hundred dollars annually, from and after the said last day of June next.

Approved, May 27, 1796.

An Act for the relief and protection of American seamen.

*Be it enacted, &c.*, That the President of the United States, by and with the advice and consent of the Senate, be, and hereby is, authorized to appoint two or more agents: the one of whom shall reside in the kingdom of Great Britain, and the others at such foreign ports as the President of the United States shall direct. That the duty of the said agents shall be, under the direction of the President of the United States, to inquire into the situation of such American citizens, or others sailing, conformably to the Law of Nations, under the protection of the American flag, as have been or may hereafter be impressed or detained by any foreign Power; to endeavor, by all legal means, to obtain the release of such American citizens or others, as aforesaid; and to render an account of all impressments and detentions whatever, from American vessels, to the Executive of the United States.

SEC. 2. *And be it further enacted*, That if it should be expedient to employ an additional agent or agents for the purposes authorized by this law, during the recess of, the Senate, the President alone be, and he hereby is, authorized to appoint such agent or agents.

SEC. 3. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to draw annually out of the Treasury of the United States a sum not exceeding fifteen thousand dollars, not otherwise appropriated, to be applied by him in such proportions as he shall direct, to the payment of the compensation of the said agents for their services, and the incidental expenses attending the performance of the duties imposed on them by this act.

SEC. 4. *And be it further enacted*, That the collector of every district shall keep a book or books, in which, at the request of any seaman, being a citizen of the United States of America, and producing proof of his citizenship, authenticated in the manner hereinafter directed, he shall enter the name of such seaman, and shall deliver to him a certificate, in the following form, that is to

say: "I, A B, collector of the district of D, do hereby certify that E F, an American seaman, aged — years, or thereabouts, of the height of — feet — inches, [describing the said seaman as particularly as may be,] has this day produced to me proof in the manner directed in the act, entitled 'An act for the relief and protection of American seamen;' and, pursuant to the said act, I do hereby certify that the said E F is a citizen of the United States of America. In witness whereof, I have hereunto set my hand and seal of office, this — day of —." And it shall be the duty of the collectors aforesaid to file and preserve the proofs of citizenship produced as aforesaid; and for each certificate delivered as aforesaid, the said collectors shall be entitled to receive from the seaman applying for the same the sum of twenty-five cents.

SEC. 5. And, in order that full and speedy information may be obtained of the seizure or detention, by any foreign Power, of any seamen employed on board any ship or vessel of the United States, *Be it further enacted*, That it shall, and hereby is declared to be the duty of the master of every ship or vessel of the United States, any of the crew whereof shall have been impressed or detained by any foreign Power, at the first port at which such ship or vessel shall arrive, if such impressment or detention happened on the high seas, or if the same happened within any foreign port, then in the port in which the same happened, immediately to make a protest, stating the manner of such impressment or detention, by whom made, together with the name and place of residence of the person impressed or detained; distinguishing also whether he was an American citizen, and, if not, to what nation he belonged. And it shall be the duty of such master to transmit, by post or otherwise, every such protest made in a foreign country to the nearest Consul or agent, or to the Minister of the United States resident in such country, if any such there be; preserving a duplicate of such protest, to be by him sent, immediately after his arrival within the United States, to the Secretary of State, together with information to whom the original protest was transmitted; and in case such protest shall be made within the United States, or in any foreign country in which no Consul, agent, or Minister of the United States resides, the same shall, as soon thereafter as practicable, be transmitted by such master, by post or otherwise, to the Secretary of State.

SEC. 6. *And be it further enacted*, That a copy of this law be transmitted by the Secretary of State to each of the Ministers and Consuls of the United States resident in foreign countries, and by the Secretary of the Treasury to the several collectors of the districts of the United States, whose duty it is hereby declared to be, from time to time, to make known the provisions of this law to all masters of ships and vessels of the United States entering or clearing at their several offices. And the master of every such ship or vessel shall, before he is admitted to an entry by any such collector, be required to declare, on oath, whether any of

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the crew of the ship or vessel under his command have been impressed or detained in the course of his voyage, and how far he has complied with the directions of this act. And every such master as shall wilfully neglect or refuse to make the declarations herein required, or to perform the duties enjoined by this act, shall forfeit and pay the sum of one hundred dollars. And it is hereby declared to be the duty of every such collector to prosecute for any forfeiture that may be incurred under this act.

SEC. 7. *And be it further enacted*, That the collector of every port of entry in the United States shall send a list of the seamen registered under this act once every three months to the Secretary of State, together with an account of such impressments or detentions as shall appear by the protests of the masters to have taken place.

SEC. 8. *And be it further enacted*, That the first, second, and third sections of this act shall be in force for one year, and from thence to the end of the next session of Congress thereafter, and no longer.

Approved, May 28, 1796.

An Act laying duties on carriages for the conveyance of persons; and repealing the former act for that purpose.

*Be it enacted, &c.*, That, from and after the last day of August next, the duties laid by the act, entitled "An act laying duties upon carriages for the conveyance of persons," shall cease, and shall not thenceforth be collected; but in lieu thereof, there shall be levied, collected, and paid, the following yearly rates and duties upon all carriages for the conveyance of persons, which shall be kept by, or for any person, for his or her own use, or to be let out for hire, or for the conveyance of passengers, to wit: For and upon every coach, whether driven with a box, or by postillion, the yearly sum of fifteen dollars; for and upon every chariot, post-chariot, and post-chaise, the yearly sum of twelve dollars; for and upon every phaeton for the conveyance of one or more persons, with or without a top; and for and upon every coachee, or other carriage, having panel work, with blinds, glasses, or curtains in the upper division of the sides, front or back thereof, the yearly sum of nine dollars; for and upon every four wheel carriage having framed posts and tops, and hanging on steel springs, (whether drawn by one or more horses,) the yearly sum of six dollars; for and upon every four wheel top carriage hanging upon wooden or iron springs or jacks (whether drawn by one or more horses); and upon every curricule, chaise, chair, sulkey, or other two wheel top carriage, and upon every two wheel carriage hanging or resting upon steel or iron springs, the yearly sum of three dollars; and for and upon every other two wheel carriage, the yearly sum of two dollars; and upon every four wheel carriage having framed posts and tops, and resting upon wooden spars, the yearly sum of two dollars: *Provided always*, That nothing herein contained shall be construed to charge with a

duty any carriage usually and chiefly employed in husbandry, or for the transportation or carrying of goods, wares, merchandise, produce, or commodities.

SEC. 2. *And be it further enacted*, That the duties aforesaid shall be levied and collected upon all carriages usually and chiefly employed for the conveyance of persons, by whatever name or description the same have been, or shall hereafter be known and called. And in cases of doubt, any carriage shall be deemed to belong to that class, to which the same shall bear the greatest resemblance, (to be determined in manner hereinafter provided,) and shall be subject to duty accordingly.

SEC. 3. *And be it further enacted*, That the duties aforesaid shall be levied, collected, received, and accounted for, by and under the immediate direction of the supervisors and inspectors of the revenue, and other officers of inspection; subject to the superintendence, control, and direction of the Department of the Treasury, according to the authorities and duties of the respective officers thereof.

SEC. 4. *And be it further enacted*, That every person having or keeping a carriage or carriages, upon which a duty or duties shall be payable according to this act, shall yearly, and in every year, in the month of September, or within sixty days previous thereto, make and subscribe a true and exact entry of each and every such carriage; therein specifying distinctly each carriage owned or kept by him or her for his or her use, or for hire, with the description and denomination thereof, and the rate of duty to which each and every such carriage is liable; which entry shall be lodged with the officer of inspection for the district in which such owner or person liable for the payment of such duty shall reside: And that it shall be the duty of the officers of inspection to attend, within the month of September in each year, at one or more of the most public and convenient places in each county within their respective districts, and to give public notice at least one month previous to such day, of the time and place of such attendance, and to receive such entry made in the manner before directed, at such place, or at any other, where he may happen to be within the said month of September; and on tender and payment being made of the duty or duties therein mentioned, to grant a certificate for each and every carriage mentioned in such entry; therein specifying the name of the owner, the description and denomination of the carriage, and the sum paid, with the time when, and the period for which such duty shall be so paid: And the forms of the certificates to be so granted shall be prescribed by the Treasury Department; and such certificates, or the acknowledgments of the officer of inspection, by a credit in his public accounts, shall be the only evidence to be exhibited and admitted, that any duty imposed by this act has been discharged: *Provided nevertheless*, That no certificate shall be deemed of validity any longer than while the carriage, for which the said certificate was granted, is owned by the person

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mentioned in such certificate, unless such certificate shall be produced to the officer of inspection by whom it was granted; and an entry shall be thereon made, specifying the name of the then owner of such carriage, and the time when he or she became possessed of the same.

SEC. 5. *And be it further enacted*, That any and all persons, who shall commence the having or keeping of any carriage, subject to duties, after the month of September, and before the month of September in the next succeeding year, shall and may, at any time during the month in which they shall so commence the having or keeping of such carriage, make like entry in manner before prescribed; and on payment of such proportion of the duties laid by this act on such carriage, as the time at which he shall commence the keeping of such carriage to the end of the month of September then next ensuing shall bear to the whole year, shall be entitled to, and may demand like certificates; subject, nevertheless, to the conditions before and hereinafter provided.

SEC. 6. *And be it further enacted*, That the duties payable by this act shall, in respect to any and all persons who shall have or keep carriages during the month of September, be deemed to commence, and shall be computed from the last day of the said month: And in respect to persons who shall commence the having or keeping of carriages after the said month of September, the said duties shall be deemed to commence, and shall be computed from the last day of the month in which they shall so begin to have or keep such carriages; conformably to which, the certificates before and hereinafter mentioned, shall be issued and granted.

SEC. 7. *And be it further enacted*, That any person having or keeping any carriage subject to duty, who shall make an untrue or defective entry, to evade the whole or any part of the duty justly and truly payable, according to this act, shall lose the sum paid pursuant to such untrue or defective entry; and where such untrue or defective entry hath been made, or where no entry shall be made, or where there shall be a neglect of payment after entry, such person shall, moreover, in addition thereto, at any time thereafter, on personal application and demand, at the house, dwelling, or usual place of abode of such person, by the proper officer of inspection, be liable, and shall pay the duties by this act imposed, with a further sum, for the benefit of such officer, of twenty-five per centum: which duties, with the said addition, shall be collected by distress and sale of the goods and chattels of the person, by whom the same shall be due and payable: *Provided always*, That such application and demand shall not be made until sixty days after the day on which any duty shall commence; and if entry and payment shall be made, within the said sixty days, at the office of inspection of the district, or at any other place where the inspector may happen to be, the owner of the carriage shall be exempted from the payment of the said sum of twenty-five per centum: *Provided, nevertheless*, That if any person of whom such application and demand

shall be made, shall forthwith present to such officer of inspection, a full and exact description of the carriage or carriages, on which the duties demanded shall have accrued, with a statement of the cause, matter, or thing, whereby an entire exemption from duty is claimed, or whereby a right is claimed, under this act, to a remission of a part of the sum demanded, such description and statement being first subscribed and verified on oath or affirmation, before some competent magistrate, by the person, by, or for whom, the same shall be presented; then and in such case, the officer of inspection shall receive such description and statement, and shall, furthermore, forbear to collect the duties and sum demanded.

SEC. 8. *And be it further enacted*, That the officers of inspection who shall receive the statements and allegations of persons claiming, either an entire exemption, or a remission of any part of any duty, or sum demanded under authority derived from this act, which may be presented to them, in manner and form before prescribed, shall forthwith transmit the same to the supervisors of their respective districts, for their consideration and decision, with such proofs and evidence in relation thereto, as they shall judge proper. And the supervisors shall forthwith, on receiving the statements and allegations before mentioned, with the proofs and evidence accompanying the same, decide thereon, according to the true intent and meaning of this act.

SEC. 9. *And be it further enacted*, That the decisions of the supervisors in the cases referred to them, in manner before prescribed, shall be forthwith communicated to the officers of inspection, whom the same may concern; and such decisions shall be final and conclusive when rendered against the demand of any officer of inspection for any duties imposed by this act: And in cases where the said supervisors shall decide, that the duties in question, or any part thereof, are justly payable according to this act, the proper officer of inspection shall forthwith collect the same by distress and sale of the goods and chattels of the persons charged with such duties: *Provided, nevertheless*, That any person aggrieved by the decision of a supervisor, may, within two months, by application in writing to such supervisor, require that the statements and proofs on which such decision was founded, be transmitted to the Secretary of the Treasury, who shall have power to determine thereon, and, if he judge proper, to direct the duty or duties which shall have been collected, in consequence of such decision, to be returned; and if any such person shall be aggrieved by the decision of the Secretary of the Treasury, he shall be allowed, within four months, to institute a suit in the proper district court of the United States against the supervisor of the district, for the recovery of any duties collected in pursuance of any decision rendered in manner aforesaid, but the parties maintaining such suits shall, in all such cases, be confined to the assignment and proof of such facts and matters as may have been previously stated to the said supervisors, in manner before provided.

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SEC. 10. *And be it further enacted*, That in all cases where any duty shall be collected pursuant to this act, whether by distress or otherwise, certificates shall be granted for each carriage in manner as before prescribed.

SEC. 11. *And be it further enacted*, That the supervisors of the revenue, and inspectors of surveys, shall have power, from time to time, to examine, upon oath or affirmation, any officers or persons employed under them in the collection and receipt of the duties imposed by this act: And any officer or person who shall swear or affirm falsely, touching any matter hereby required to be verified on oath or affirmation, shall, on conviction thereof, suffer the pains and penalties which are prescribed for wilful and corrupt perjury.

SEC. 12. *And be it further enacted*, That it shall be lawful for the President of the United States, and he is hereby empowered, to make such allowances for compensation to the officers of inspection employed in the collection of the duties aforesaid, and for incidental expenses, as he shall judge reasonable, not exceeding, in the whole, five per centum of the total amount of the said duties collected.

SEC. 13. *And be it further enacted*, That the act, entitled "An act laying duties on carriages for the conveyance of persons," and so much of the fifteenth section of the act, entitled "An act to alter and amend the act, entitled "An act laying certain duties upon snuff and refined sugar," as authorizes the President of the United States to apply a sum not exceeding five per centum on the total amount of duties collected on carriages for the conveyance of persons, shall cease and be repealed, from and after the last day of August next; except for the recovery of any duties or penalties, which shall have accrued and remain unpaid; anything in the last section of the act of the last session, entitled "An act making further provision for the support of public credit, and for the redemption of the public debt," to the contrary notwithstanding: And that this act shall continue in force until the last day of August, in the year one thousand eight hundred and one, and no longer.

Approved, May 28, 1796.

**An Act for the relief of persons imprisoned for debt.**

*Be it enacted, &c.*, That persons imprisoned on process issuing from any court of the United States in civil actions, shall be entitled to like privileges of the yards or limits of the respective jails, as persons confined in like cases, on process from the courts of the respective States are entitled to, and under the like regulations and restrictions.

SEC. 2. *And be it further enacted*, That any person imprisoned as aforesaid may have the oath or affirmation hereinafter expressed administered to him by any judge of the United States; and in case there shall be no judge of the United States residing within twenty miles of the jail wherein such debtor may be confined, such oath or affirm-

ation may be administered by any two persons who may be commissioned for that purpose by the judge of the district court of the United States within whose jurisdiction the debtor may be confined; the creditor, his agent, or attorney, if either live within one hundred miles of the place of imprisonment, or within the district in which the judgment was rendered, having had at least thirty days' previous notice by a citation served on him, issued by the district judge, to appear at the time therein mentioned at the said jail, if he see fit, to show cause why the said oath or affirmation should not be so administered: at which time and place, if no sufficient cause, in the opinion of the judge, (or the commissioners appointed as aforesaid,) be shown, or from examination appear to the contrary, he (or they) may, at the request of the debtor proceed to administer to him the following oath or affirmation, as the case may be, viz: "You ——— solemnly swear (or affirm) that you have not estate, real or personal, nor is any to your knowledge holden in trust for you, (necessary wearing apparel excepted,) to the amount or value of thirty dollars, nor sufficient to pay the debt for which you are imprisoned." Which oath or affirmation being administered, the judge or commissioners shall certify the same under his or their hands to the prison keeper and the debtor shall be discharged from his imprisonment on such judgment, and shall not be liable to be imprisoned again for the said debt, but the judgment shall remain good and sufficient in law, and may be satisfied out of any estate which may then or at any time afterwards belong to the debtor. And whenever the oath aforesaid shall be administered by commissioners, in addition to the certificate by them made and delivered to the prison keeper, they shall make return of their doings to the district court with the commission to them issued, to be kept upon the files and records of the same court.

SEC. 3. *And be it further enacted*, That if any person shall falsely take the oath or affirmation aforesaid, such person shall be deemed guilty of perjury, and upon conviction thereof shall suffer the pains and penalties in that case provided. And the court upon the motion of the creditor shall recommit the debtor to the prison from whence he was liberated, there to be detained for the said debt, in the same manner as if such oath or affirmation had not been taken.

SEC. 4. *And be it further enacted*, That the act, entitled "An act to continue in force the act for the relief of persons imprisoned for debt," be, and the same is hereby repealed.

SEC. 5. *And be it further enacted*, That this act shall continue in force for the term of three years.

Approved, May 28, 1796.

**An Act to ascertain and fix the Military Establishment of the United States.**

*Be it enacted, &c.*, That the Military Establishment of the United States from and after the last day of October next, be composed of the corps of artillerists and engineers, as established by the

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act, entitled "An act providing for raising and organizing a corps of artilleryists and engineers;" two companies of light dragoons, who shall do duty on horse or foot, at the discretion of the President of the United States; and four regiments of infantry, of eight companies each; the company of dragoons shall consist of one captain, two lieutenants, one cornet, four sergeants, four corporals, one farrier, one saddler, one trumpeter, and fifty-two privates, and shall be armed and accoutred in such manner as the President of the United States may direct.

SEC. 2. *And be it further enacted*, That each regiment of infantry shall consist of one lieutenant-colonel commandant, two majors, one adjutant, one paymaster, one quartermaster, one surgeon, two surgeons' mates, eight captains, eight lieutenants, eight ensigns, two sergeant-majors, two quartermaster-sergeants, two senior musicians, thirty-two sergeants, thirty-two corporals, sixteen musicians, and four hundred and sixteen privates: *Provided, always*, That the President of the United States may, in his discretion, appoint an additional number of surgeon's mates, not exceeding ten, and distribute the same, according to the necessity of the service.

SEC. 3. *And be it further enacted*, That there shall be one major-general, with two aids-de-camp, one brigadier-general, who may choose his brigade-major from the captains or subalterns of the line; which brigade-major shall receive the monthly pay of twenty-four dollars, in addition to his pay in the line, be entitled to four rations of provisions, for his daily subsistence; and, whenever forage shall not be furnished by the public, to ten dollars per month in lieu thereof; one quartermaster-general; one inspector, who shall do the duty of adjutant-general; and one paymaster-general; and that the adjutants, quartermasters, and paymasters, of regiments shall be appointed from the subalterns of their respective regiments.

SEC. 4. *And be it further enacted*, That the President of the United States cause to be arranged the officers, non-commissioned officers, privates, and musicians, of the legion of the United States, and light dragoons, in such manner as to form and complete out of the same the four regiments aforesaid, and two companies of light dragoons. And the supernumerary officers, privates, and musicians, shall be considered, from and after the last day of October next, discharged from the service of the United States.

SEC. 5. *And be it further enacted*, That the corps of artilleryists and engineers be completed, conformably to the act of the eighth day of May, one thousand seven hundred and ninety-four, establishing the same, and prescribing the number and term of enlistments, and the method of organization.

SEC. 6. *And be it further enacted*, That the commissioned officers, who shall be employed in the recruiting service, to keep up, by enlistments, the corps of artilleryists, infantry, and dragoons aforesaid, shall be entitled to receive, for every able-bodied recruit, duly enlisted and mustered,

of at least five feet six inches in height, and not under the age of eighteen nor above the age of forty-six years, the sum of two dollars.

SEC. 7. *And be it further enacted*, That there shall be allowed and paid to each soldier now in the service of the United States, or discharged therefrom, subsequent to the third day of March, one thousand seven hundred and ninety-four, who shall re-enlist for the term of five years, unless sooner discharged, a bounty of sixteen dollars; and to each person not now in the army of the United States, or discharged as above, who shall hereafter enlist for the term aforesaid, a bounty of fourteen dollars; but the payment of four dollars of the bounty of each and every man so enlisting shall be deferred until he shall have joined the corps in which he is to serve.

SEC. 8. *And be it further enacted*, That every non-commissioned officer, private, and musician, of the artillery and infantry, shall receive, annually, the following articles of uniform clothing, to wit: one hat, one coat, one vest, two pair of woollen and two pair of linen overalls, four pair of shoes, four shirts, four pair of socks, one blanket, one stock and clasp, and one pair of buckles.

SEC. 9. *And be it further enacted*, That suitable clothing be provided for the dragoons, adapted to the nature of the service, and conformed as near as may be, to the value of the clothing allowed to the infantry and artillery.

SEC. 10. *And be it further enacted*, That every non-commissioned officer, private, and musician, shall receive, daily, the following rations of provisions, to wit: one pound of beef, or three-quarters of a pound of pork, one pound of bread or flour, half a gill of rum, brandy, or whiskey; and at the rate of one quart of salt, two quarts of vinegar, two pounds of soap, and one pound of candles, to every hundred rations.

SEC. 11. *Provided always, and be it further enacted*, That to those in the military service of the United States, who are, or shall be, employed on the western frontiers, there shall be allowed, during the time of their being so employed, two ounces of flour or bread, and two ounces of beef or pork, in addition to each of the rations, and half a pint of salt, in addition to every hundred of their rations.

SEC. 12. *And be it further enacted*, That the monthly pay of the officers, non-commissioned officers, musicians, and privates, of the Military Establishment, be as follows: a major-general, one hundred and sixty-six dollars; a brigadier-general, one hundred and four dollars; quartermaster, inspector, and paymaster generals, each, in addition to their pay in the line, twenty-five dollars; principal artificer, forty dollars; second artificer, twenty-six dollars; lieutenant-colonel commandant, seventy-five dollars; major of artillery and of dragoons, fifty-five dollars; major of infantry, fifty dollars; paymaster, adjutant, and regimental quartermaster, in addition to their pay in the line, ten dollars; captain, forty dollars; lieutenants, twenty-six dollars; ensigns and cornets, twenty dollars; surgeons, forty-five dollars; surgeons' mates, thirty dollars; sergeant-majors

and quartermaster-sergeants, eight dollars; senior musicians, seven dollars; sergeants, seven dollars; corporals, six dollars; musicians, five dollars; privates, four dollars; artificers allowed to the infantry and artillery, farriers and saddlers to the dragoons, each, nine dollars; matrons and nurses in the hospital, eight dollars.

SEC. 13. *And be it further enacted*, That the commissioned officers aforesaid shall be entitled to receive for their daily subsistence the following number of rations of provisions: a major-general, fifteen rations; a brigadier-general twelve rations; a lieutenant-colonel commandant, six rations; quartermaster, inspector, and paymaster generals, each, six rations; and each aid-de-camp shall receive the monthly pay of twenty-four dollars in addition to his pay in the line, be entitled to four rations of provisions for his daily subsistence, and whenever forage shall not be furnished by the public, to ten dollars per month in lieu thereof; a captain, three rations; a lieutenant, ensign, and cornet, each, two rations; a surgeon, three rations; a surgeon's mate, two rations; a principal and second artificer, each, two rations, or money in lieu thereof, at the option of the said officers, at the posts, respectively, where the rations shall become due; and if at such posts supplies are not furnished by contract, then such allowance as shall be deemed equitable, having reference to former contracts, and the position of the place in question.

SEC. 14. *And be it further enacted*, That the officers hereinafter described shall, whenever forage shall not be furnished by the public, receive at the rate of the following enumerated sums, per month, instead thereof, to wit: a major-general, twenty dollars; a brigadier-general, sixteen dollars; quartermaster, inspector, and paymaster generals, each, twelve dollars; lieutenant-colonel commandant, twelve dollars; major, ten dollars; captain of dragoons, eight dollars; lieutenant and cornet, each six dollars; surgeon, ten dollars; surgeon's mate, six dollars; principal artificer, paymaster, adjutant, and regimental quartermaster, each, six dollars.

SEC. 15. *And be it further enacted*, That every person who shall procure or entice a soldier in the service of the United States to desert, or who shall purchase from any soldier his arms, uniform clothing, or any part thereof; and every captain or commanding officer of any ship or vessel, who shall enter on board such ship or vessel as one of his crew, knowing him to have deserted, or otherwise carry away any such soldier, or shall refuse to deliver him up to the orders of his commanding officer, shall, upon legal conviction, be fined, at the discretion of the court, in any sum not exceeding three hundred dollars, or be imprisoned for any term not exceeding one year.

SEC. 16. *And be it further enacted*, That no non-commissioned officer or private shall be arrested, or subject to arrest, for any debt under the sum of twenty dollars.

SEC. 17. *And be it further enacted*, That if any non-commissioned officer, musician, or private shall desert from the service of the United States,

he shall, in addition to the penalties mentioned in the rules and articles of war, be liable to serve for and during such a period as shall, with the time he may have served, previous to his desertion, amount to the full term of his enlistment, and such soldier shall and may be tried and sentenced by a regimental or garrison court-martial, although the term of his enlistment may have elapsed, previous to his being apprehended or tried.

SEC. 18. *And be it further enacted*, That the sentences of general courts-martial, in time of peace, extending to the loss of life, the dismissal of a commissioned officer, or which shall, either in time of peace or war, respect a general officer, shall, with the whole of the proceedings in such cases, respectively, be laid before the President of the United States; who is hereby authorized to direct the same to be carried into execution or otherwise, as he shall judge proper.

SEC. 19. *And be it further enacted*, That if any officer, non-commissioned officer, private, or musician aforesaid, shall be wounded or disabled while in the line of his duty in public service, he shall be placed on the list of the invalids of the United States, at such rate of pay, and under such regulations as shall be directed by the President of the United States for the time being: *Provided, always*, That the rate of compensation to be allowed for such wounds or disabilities to a commissioned officer, shall never exceed, for the highest disability, half the monthly pay of such officer at the time of his being so disabled or wounded; and that the rate of compensation to non-commissioned officers, privates, and musicians, shall never exceed five dollars per month: *And provided, also*, That all inferior disabilities shall entitle the person so disabled to receive an allowance proportionate to the highest disability.

SEC. 20. *And be it further enacted*, That the officers, non-commissioned officers, privates, and musicians aforesaid, shall be governed by the rules and articles of war, which have been established by the United States in Congress assembled, [except so much of the same as is by this act altered or amended,] as far as the same may be applicable to the Constitution of the United States; or by such rules and articles as may hereafter by law be established.

SEC. 21. *And be it further enacted*, That every officer, non-commissioned officer, private, and musician aforesaid, shall take and subscribe the following oath or affirmation, to wit: "I, A B, do solemnly swear or affirm (as the case may be) to bear true allegiance to the United States of America, and to serve them honestly and faithfully against their enemies or opposers whomsoever, and to observe and obey the orders of the President of the United States and the orders of the officers appointed over me, according to the rules and articles of war."

SEC. 22. *And be it further enacted*, That so much of any act or acts now in force, as comes within the purview of this act, shall be, and the same is hereby repealed; saving, nevertheless, such parts thereof as relate to the enlistments or term of service of any of the troops which, by



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this act, are continued on the present Military Establishment of the United States.

**SEC. 23. And be it further enacted,** That the general staff, as authorized by this act, shall continue in service until the 4th day of next March, and no longer.

Approved, May 30, 1796.

An Act to regulate the compensation of Clerks.

**Be it enacted, &c.,** That the Secretary of the Treasury, the Secretary of the Department of State, and the Secretary of the Department of War, be authorized to vary for the present year the compensations heretofore established for clerks in their respective departments, in such manner as the services to be performed shall in their judgment require.

**SEC. 2. And be it further enacted,** That, to the aggregate of compensations for clerks in the year one thousand seven hundred and ninety-four, there shall, during the present year, be further allowed—

In the Treasury Department, the sum of four thousand dollars, including one thousand eight hundred dollars to three additional clerks;

In the Department of State, the sum of two hundred dollars;

In the Department of War, the sum of two hundred dollars. And that the Accountant of the War Department may employ a principal clerk, at the salary allowed to principal clerks in the other departments;

And to the Director of the Mint, for one clerk to be employed by him, the additional sum of two hundred dollars.

**SEC. 3. And be it further enacted,** That there be allowed for the present year to the Commissioners of Loans, in the States of Massachusetts and New York, respectively, not exceeding five clerks, at the rate of five hundred dollars each; to the Commissioner of Loans in the State of Connecticut, not exceeding two clerks, at the rate of four hundred dollars each; and to the Commissioners of Loans in the States of Pennsylvania, Virginia, and South Carolina, respectively, not exceeding two clerks, at the rate of five hundred dollars each. The aggregate of the compensations for the clerks employed by either of the said Commissioners to be apportioned among them at his discretion. That there be allowed for the year aforesaid, in lieu of clerk-hire, to the Commissioner of Loans in the State of New Hampshire, three hundred and fifty dollars; to the Commissioner of Loans in the State of Rhode Island, four hundred dollars; to the Commissioner of Loans in the State of New Jersey, three hundred dollars; and to the Commissioner of Loans in the State of Maryland, two hundred and fifty dollars.

Approved, May 30, 1796.

An Act to continue in force, for a limited time, the acts therein mentioned.

**Be it enacted, &c.,** That the act, entitled "An act supplementary to the act for the establishment and support of light-houses, beacons, buoys, and public piers," so far as the same provides for de-

fraying the necessary expense of supporting light-houses, beacons, buoys, and public piers, and the stakeage of channels on the sea-coast; and also the act, entitled "An act to provide for mitigating or remitting the forfeitures and penalties accruing under the revenue laws in certain cases therein mentioned"—be, and the same are hereby, continued in force for the term of two years.

**SEC. 2. And be it further enacted,** That the thirteenth section of the act, entitled "An act making further provision for securing and collecting the duties on foreign and domestic distilled spirits, stills, wines, and teas," which section will expire at the end of the present session of Congress, shall be, and the same is hereby, further continued in force for the term of one year from the passing of this act, and from thence to the end of the next session of Congress thereafter, and no longer.

Approved, May 30, 1796.

An Act making further provision for the expenses attending the intercourse of the United States with foreign nations, and to continue in force the act, entitled "An act providing the means of intercourse between the United States and foreign nations."

**Be it enacted, &c.,** That the act, entitled "An act providing the means of intercourse between the United States and foreign nations," passed the first day of July, one thousand seven hundred and ninety; together with the second section of the act, entitled "An act to continue in force, for a limited time, and to amend the act, entitled 'An act providing the means of intercourse between the United States and foreign nations,' passed the ninth day of February, one thousand seven hundred and ninety-three, shall be continued in force for the term of one year from the passing of this act; and from thence until the end of the next session of Congress thereafter holden, and no longer.

**SEC. 2. And be it further enacted,** That the sum of twenty thousand dollars be, and the same is hereby, appropriated, for defraying the expenses which may attend the intercourse between the United States and foreign nations, during the year one thousand seven hundred and ninety-six, in addition to the sum of forty thousand dollars annually appropriated for that purpose.

**SEC. 3. And be it further enacted,** That so much of the sum appropriated by the first section of the act, entitled "An act making further provision for the expenses attending the intercourse of the United States with foreign nations;" and further to continue in force the act, entitled "An act providing the means of intercourse between the United States and foreign nations," passed the twentieth day of March, one thousand seven hundred and ninety-four, as remains unexpended, together with a further sum of two hundred and sixty thousand dollars, be, and the same is hereby, appropriated, for the purpose of carrying into effect any Treaty already made, and to enable the President to effect any Treaty or Treaties with any of the Mediterranean Powers.

**SEC. 4. And be it further enacted,** That the sum

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of four thousand five hundred and thirty-nine dollars and six cents be, and the same is hereby, appropriated, to reimburse certain sums advanced by Captain Colvill and Captain Burnham for their ransom from captivity in Algiers; which sum, the Secretary of the Treasury is hereby authorized and required to pay to the said Captains Colvill and Burnham, dividing the same equally between them.

SEC. 5. *And be it further enacted*, That the President of the United States be authorized to borrow, on the credit of the United States, if, in his opinion, the public service shall require it, a sum not exceeding three hundred and twenty-four thousand five hundred and thirty-nine dollars and six cents, at an interest not exceeding six per centum per annum, reimbursable at the pleasure of the United States, to be applied to the purposes of this act, and to be repaid out of the duties on imports and tonnage accruing during the present year, and not otherwise appropriated. And it shall be lawful for the Bank of the United States to lend the same.

Approved, May 30, 1796.

**An Act making provision for the payment of certain Debts of the United States.**

*Be it enacted, &c.*, That it shall be lawful for the Commissioners of the Sinking Fund, with the approbation of the President of the United States, to borrow, or cause to be borrowed, on the credit of the United States, any sum not exceeding five millions of dollars, to be applied to the payment of the capital or principal of any parts of the debt of the United States now due, or to become due during the course of the present year, to the Bank of the United States, or to the Bank of New York, or for any instalment of foreign debt: And that, for the whole, or such part of the said sum as shall be borrowed, certificates shall be issued, purporting that the United States are indebted for the sums to be therein expressed, bearing an interest of six per centum per annum, payable quarter yearly; which sums, at the said rate of interest, are to remain fixed and irredeemable, until the close of the year one thousand eight hundred and nineteen, and to be redeemed thereafter, at the pleasure of the United States. And the Bank of the United States is hereby authorized to lend the whole, or any part of the said five millions of dollars, and to sell the stock received for such loan.

SEC. 2. *And be it further enacted*, That credits for the sums which shall be borrowed, pursuant to this act, shall be entered and given on the books of the Treasury, in like manner as for the present domestic funded debt; and that certificates, for sums not less than one hundred dollars, pursuant to the provisions herein contained, shall be issued by the Register of the Treasury; which shall be transferable in like manner, and by the like ways and means, as are provided by the seventh section of the act, entitled "an act making provision for the debt of the United States," touching the credits or stock therein mentioned;

and that the interest to be paid upon the stock, which shall be constituted by virtue of the loan herein proposed, shall be paid at the offices or places where the credits for the same shall, from time to time, stand or be; subject to the like conditions and restrictions as are prescribed in and by the eighth section of the act last aforesaid.

SEC. 3. *And be it further enacted*, That it shall be deemed a good execution of the power to borrow, herein granted, for the said Commissioners of the Sinking Fund to cause to be constituted certificates of stock of the description herein mentioned, and to cause the same to be sold in the United States, or elsewhere: *Provided*, That no more than one moiety of the said stock shall be sold under par. And it shall be lawful for the Commissioners of the Sinking Fund, if they shall find the same to be most advantageous, to sell such and so many of the shares of the stock of the Bank of the United States, belonging to the United States, as they may think proper; and that they apply the proceeds thereof to the payment of the said debts, instead of selling certificates of stock, in the manner prescribed by this act. And such of the revenues of the United States, heretofore appropriated for the payment of interest of debts, thus discharged, shall be, and the same are hereby, pledged and appropriated towards the payment of the interest, and instalments of the principal, which shall hereafter become due, on the loan obtained of the Bank of the United States, pursuant to the eleventh section of the act for incorporating the subscribers to the said bank.

SEC. 4. *And be it further enacted*, That such of the revenues of the United States, heretofore appropriated for the payment of interest on such debts as may be liberated or set free, by payments from the proceeds of the loan herein proposed; together with such further sums of the proceeds of the duties on goods, wares and merchandise imported, on the tonnage of ships or vessels, and upon spirits distilled in the United States, and stills, as may be necessary, shall be, and the same are hereby, pledged and appropriated for the payment of the interest which shall be payable upon the sums subscribed to the said loan; and shall continue so pledged and appropriated, until the principal of the said loan shall be fully reimbursed and redeemed.

SEC. 5. *And be it further enacted*, That the principal of the said loan, bearing interest as aforesaid, shall remain fixed and irredeemable by the United States, until the close of the year one thousand eight hundred and nineteen; after which period the said loans shall be redeemed at the pleasure of the United States; and the funds which shall be liberated by the discharge of the stock of the United States, bearing a present interest of six per cent., or so much thereof as may be necessary, shall be, and the same are hereby, pledged and appropriated for the said redemption.

SEC. 6. *And be it further enacted*, That the Department of the Treasury, according to the respective duties of the offices thereof, shall, and they are hereby directed to, establish such forms and rules of proceeding, touching the execution of

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this act, as shall be conformable with the provisions thereof.

Approved, May 31, 1796.

**An Act providing passports for the ships and vessels of the United States.**

*Be it enacted, &c.,* That it shall be the duty of the Secretary of State to prepare a form, which, when approved by the President, shall be deemed the form of a passport for ships and vessels of the United States.

**SEC. 2.** *And be it further enacted,* That every ship and vessel of the United States, going to any foreign country, shall, before she departs from the United States, at the request of the master, be furnished by the collector for the district where such ship or vessel may be, with a passport of the form prescribed and established, pursuant to the foregoing section; for which passport, the master of such ship or vessel shall pay to the said collector ten dollars, to be accounted for by him: **And,** in order to be entitled to such passport, the master of every such ship or vessel shall be bound, with sufficient sureties, to the Treasurer of the United States, in the penalty of two thousand dollars, conditioned, that the said passport shall not be applied to the use or protection of any other ship or vessel than the one described in the same; and that, in case of the loss or sale of any ship or vessel having such passport, the same shall, within three months, be delivered up to the collector from whom it was received, if the loss or sale take place within the United States; or within six months, if the same shall happen at any place nearer than the Cape of Good Hope; and within eighteen months, if at a more distant place.

**SEC. 3.** *And be it further enacted,* That there shall be paid on every ship and vessel of the United States sailing or trading to any foreign country, other than some port or place in America, for each and every voyage, the sum of four dollars, to be received and accounted for by the collector, at the time of clearing outward, if such vessel be bound direct to such foreign country, from any port of the United States, or at the time of entry in the United States, if such ship or vessel shall have sailed to such foreign country, from any port or place in America, other than of the United States.

**SEC. 4.** *And be it further enacted,* That if any ship or vessel of the United States shall depart therefrom, after the first day of September next, and shall be bound to any foreign country, other than to some port or place in America, without such passport, the master of such ship or vessel shall forfeit and pay the sum of two hundred dollars for every such offence.

Approved, June 1, 1796.

**An Act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen.**

*Be it enacted, &c.,* That the Surveyor General be and he is hereby required to cause to be sur-

veyed the tract of land beginning at the north-west corner of the seven ranges of townships, and running thence fifty miles due south, along the western boundary of the said ranges; thence due west to the main branch of the Scioto river; thence up the main branch of the said river, to the place where the Indian boundary line crosses the same; thence along the said boundary line, to the Tuscaroras branch of the Muskingum river, at the crossing place above Fort Lawrence; thence up the said river, to the point where a line, run due west from the place of beginning, will intersect the said river; thence along the line so run to the place of beginning. **And shall** cause the said tracts to be divided into townships of five miles square, by running, marking, and numbering the exterior lines of the said townships, and marking corners in the said lines, at the distance of two and one half miles from each other, in the manner directed by the act, entitled "An act providing for the sales of the lands of the United States in the territory northwest of the river Ohio, and above the mouth of Kentucky river;" and that the lands above described, except the salt springs therein, and the same quantities of land adjacent thereto as are directed to be reserved with the salt springs in the said recited act, and such tracts within the boundaries of the same as have been heretofore appropriated by Congress, be and they are hereby set apart and reserved for the purposes hereinafter mentioned.

**SEC. 2.** *And be it further enacted,* That the said land shall be granted only in tracts containing a quarter of the townships to which they belong, lying at the corners thereof; and that the Secretary of the Treasury shall, for the space of nine months, after public notice in the several States and territories, register warrants for military services, to the amount of any one or more tracts, for any person or persons holding the same; and shall, immediately after the expiration of the said time, proceed to determine by lot, to be drawn in the presence of the Secretaries of State and of War, the priority of location of the said registered warrants. **And** the person or persons holding the same shall severally make their locations, after the lots shall be proclaimed, on a day to be previously fixed in the before mentioned notice; in failure of which they shall be postponed in locating such warrants to all other persons holding registered warrants. **And** the patents for all lands located under the authority of this act, shall be granted in the manner directed by the before mentioned act, without requiring any fee therefor.

**SEC. 3.** *And be it further enacted,* That after the time limited for making the locations as aforesaid, any person or persons holding warrants of the before mentioned description, sufficient to cover any one or more tracts as aforesaid, shall be at liberty to make their locations on any tract or tracts not before located.

**SEC. 4.** *And be it further enacted,* That all the lands set apart by the first section of this act, which shall remain unlocated on the first day of January, in the year one thousand eight hundred,

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shall be released from the said reservation, and shall be at the free disposition of the United States, in like manner as any other vacant territory of the United States. And all warrants or claims for lands on account of military services, which shall not, before the day aforesaid, be registered and located, shall be for ever barred.

SEC. 5. *And be it further enacted*, That the said Surveyor General be, and he is hereby, required, to cause to be surveyed three several tracts of land, containing four thousand acres each, at Shoenbrun, Gnadenhutzen, and Salem; being the tracts formerly set apart by an ordinance of Congress of the third of September, one thousand seven hundred and eighty-eight, for the Society of United Brethren for propagating the Gospel among the Heathen; and to issue a patent or patents for the said three tracts to the said society, in trust for the uses and purposes in the said ordinance set forth.

SEC. 6. *And be it further enacted*, That all navigable streams or rivers within the territory to be disposed of by virtue of this act, shall be deemed to be and remain public highways. And that in all cases where the opposite banks of any stream not navigable shall belong to different persons, the stream and the bed thereof shall be common to both.

Approved, June 1, 1796.

**An Act for the admission of the State of Tennessee into the Union.**

Whereas, by the acceptance of the deed of cession of the State of North Carolina, Congress are bound to lay out into one or more States the territory thereby ceded to the United States:

*Be it enacted, &c.*, That the whole of the territory ceded to the United States by the State of North Carolina shall be one State, and the same is hereby declared to be one of the United States of America, on an equal footing with the original States, in all respects whatever, by the name and title of the State of Tennessee. That, until the next general census, the said State of Tennessee shall be entitled to one representative in the House of Representatives of the United States; and in all other respects, as far as they may be applicable, the laws of the United States shall extend to and have force in the State of Tennessee, in the same manner as if that State had originally been one of the United States.

Approved, June 1, 1796.

**An Act making an appropriation to satisfy certain demands attending the late insurrection; and to increase the compensations to jurors and witnesses in the courts of the United States.**

*Be it enacted, &c.*, That a sum not exceeding twenty thousand dollars, out of any moneys not otherwise appropriated, be and the same is hereby appropriated to the discharge of certain incidental demands, occasioned by the trial of persons for crimes and offences during the late insurrection, for the payment of which no special provision has been made by the law.

SEC. 2. *And be it further enacted*, That, in addition to the compensation now allowed by law to jurors and witnesses attending in the courts of the United States, there shall be allowed and paid to each grand and petit juror for his attendance fifty cents per day, and to each witness, for like attendance, fifty cents per day.

SEC. 3. *And be it further enacted*, That the sum of ten thousand dollars, out of any moneys not otherwise appropriated, be and the same is hereby appropriated for defraying the expense of clerks of courts, jurors, and witnesses, for the year one thousand seven hundred and ninety-six, in aid of the fund arising from fines, forfeitures, and penalties, and of the appropriations already made for that purpose.

Approved, June 1, 1796.

**An Act limiting the time for the allowance of a drawback on the exportation of domestic distilled spirits, and allowing a drawback upon such spirits exported in vessels of less than thirty tons, by the Mississippi.**

*Be it enacted, &c.*, That, from and after the first day of July next, no drawback shall be allowed on any of the spirits distilled in the United States, which shall not be exported, pursuant to regulations heretofore enacted, and in force, within twelve months from the time when such spirits were distilled, to be ascertained by the dates of the certificates which may and ought to accompany the said spirits at the time of exportation.

SEC. 2. *And be it further enacted*, That the restriction in the fifty-sixth section of the act, entitled "An act repealing, after the last day of June next, the duties heretofore laid upon distilled spirits imported from abroad, and laying others in their stead; and also upon spirits distilled in the United States, and for appropriating the same," shall, from and after the first day of July next, be suspended and cease to operate for the space of one year, so far as the said restriction respects any distilled spirits which may be exported from the district of Louisville, in the State of Kentucky, or from any district which may be hereafter established on the rivers Mississippi or Ohio, or the branches thereof.

Approved, June 1, 1796.

**An Act making further appropriations for the year one thousand seven hundred and ninety-six.**

*Be it enacted, &c.*, That, in addition to the sums heretofore appropriated, there be further appropriated for and during the present year the following sums, that is to say: In the Department of State, for the compensation of clerks, two hundred dollars; in the Department of the Treasury, for the compensation of clerks, four thousand dollars; in the Department of War, for the additional salary of the accountant, four hundred dollars; and for the additional compensation of clerks in the said Department, seven hundred dollars; and in the Mint of the United States, for the additional salary of the clerk, two hundred dollars.

SEC. 2. *And be it further enacted*, That for the compensation of clerks in the several Loan Offices,

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and for defraying the expenses of books and stationery for the said offices, during the present year, and during the year one thousand seven hundred and ninety-five, there be appropriated a sum not exceeding fourteen thousand dollars.

SEC. 3. *And be it further enacted*, That there be further appropriated towards defraying the extraordinary expenses which may be incurred during the year one thousand seven hundred and ninety-six for foreign intercourse, a sum not exceeding twenty-three thousand five hundred dollars, in addition to the sum already appropriated for that purpose by the second section of the act of the present session, entitled "An act making further provision for the expenses attending the intercourse of the United States with foreign nations, and to continue in force the act entitled 'An act providing the means of intercourse between the United States and foreign nations.'"

SEC. 4. *And be it further enacted*, That there be appropriated for the contingent expenses of the Government of the United States a sum not exceeding twenty thousand dollars, subject to the disposition of the President of the United States, and for the payment of such miscellaneous demands against the United States, other than those on account of the civil department, not otherwise provided for, and which shall have been ascertained and admitted in due course of settlement at the Treasury, and which are of a nature, according to the usage thereof, to require payment in specie, a sum not exceeding two thousand dollars; and that the several appropriations hereinbefore made be, and the same are hereby, directed to be paid out of the proceeds of the duties on imports and the tonnage of ships and vessels, and the duties on domestic distilled spirits and on stills, which shall accrue until the close of the present year.

Approved, June 1, 1796.

An Act making appropriations for the support of the Military and Naval Establishments for the year one thousand seven hundred and ninety-six.

*Be it enacted, &c.*, That, including the appropriation of five hundred thousand dollars, made for the Military Establishment for the year one thousand seven hundred and ninety-six, by an act of the present session, there be appropriated for the Military and Naval Establishments a sum not exceeding one million three hundred and eighteen thousand eight hundred and seventy-three dollars, that is to say: For the pay of the Army of the United States, the sum of two hundred and seventy-three thousand six hundred and sixty-six dollars; for subsistence of the officers of the Army, the sum of forty-five thousand six hundred and six dollars; for the subsistence of the non-commissioned officers and privates, the sum of three hundred thousand dollars; for forage, the sum of sixteen thousand five hundred and ninety-two dollars; for clothing, the sum of seventy thousand dollars; for purchase of horses for the cavalry, the sum of three thousand seven hundred and fifty dollars; for bounties, the sum of ten thousand dollars; for

the hospital department, the sum of thirty thousand dollars; for the ordnance department, the sum of forty thousand dollars; for the Indian department, the sum of sixty thousand dollars; for the quartermaster's department, the sum of two hundred thousand dollars; for contingencies of the War Department, the sum of thirty thousand dollars; for the defence and protection of the frontiers, the sum of one hundred thousand dollars; for the completion of fortifications, magazines, store-houses, and barracks, at West Point, the sum of twenty thousand dollars; for the pay and subsistence of three captains in the Naval Department, the sum of five thousand dollars; for the payment of military pensions, including an allowance to the widows and children of officers, under an act, entitled "An act in addition to the act for making further and more effectual provision for the protection of the frontiers of the United States," the sum of one hundred and fourteen thousand two hundred and fifty-nine dollars.

SEC. 2. *And be it further enacted*, That the several appropriations hereinbefore made shall be paid and discharged out of the funds following, to wit: First. The surplus of the sum of six hundred thousand dollars, reserved by the act "making provision for the debt of the United States," and which shall accrue during the year one thousand seven hundred and ninety-six. Secondly. The surplus of revenue and income beyond the appropriations heretofore charged thereupon, to the end of the year one thousand seven hundred and ninety-six. And, thirdly. The surplus which shall remain unexpended of the moneys appropriated to the use of the War Department for the year one thousand seven hundred and ninety-five.

SEC. 3. *And be it further enacted*, That the President of the United States be empowered to borrow, at an interest not exceeding six per cent., of the Bank of the United States, which is hereby authorized to lend the same, or of any body or bodies politic, person or persons, any sum or sums not exceeding in the whole six hundred and fifty thousand dollars, and to be applied to the purposes aforesaid, and to be reimbursed, as well interest as principal, out of the funds aforesaid.

Approved, June 1, 1796.

An Act providing relief to the owners of stills within the United States for a limited time, in certain cases.

*Be it enacted, &c.*, That in every case of a distiller who hath entered his still or stills in such manner as to be liable to pay the duty of fifty-four cents upon the capacity or capacities thereof for the year to end in June, one thousand seven hundred and ninety-six, wherein it shall be made to appear to the supervisor of the district that the said distiller has been really and truly prevented from employing or working his still or stills during any part of the term aforesaid, by the destruction or failure of fruit and grain, or any other unavoidable cause, within the district in which he resides, it shall and may be lawful for the said supervisor, on application made to him any time before the last day of September next, to admit such distiller to the benefit

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of an election to pay, in lieu of the duty on the capacity of his still or stills for the year, the monthly duty of ten cents per gallon of the capacity for the time he employed his still or stills.

Approved, June 1, 1796.

An Act to suspend, in part, the act, entitled "An act to alter and amend the act, entitled 'An act laying certain duties upon snuff and refined sugar.'"

*Be it enacted, &c.*, That so much of the act, entitled "An act to alter and amend the act, entitled 'An act laying certain duties upon snuff and refined sugar,'" as respects the duties therein laid upon mills and implements employed in the manufacture of snuff, and the drawbacks therein allowed upon the exportation of snuff manufactured within the United States, be suspended from the passing of this act until the end of the next session of Congress.

Approved, June 1, 1796.

*Resolved by the Senate and House of Representatives of the United States of America in Con-*

gress assembled, That the Secretary for the Department of War return to the respective district judges the names of all such persons as have been transmitted to him by the several district judges, pursuant to the act for the regulation of claims to invalid pensions; and in whose cases the examining physicians have neglected to specify the ratio of disability, together with such defective returns of physicians. And the said district judges, respectively, shall forthwith cause the examining physicians to specify the several rates of disability which have been so neglected; or, in case of sickness, death, or removal of one or both such physicians, to make new appointments, and cause the several rates of disability to be specified, and by the said physicians returned to them as soon as may be; of which they shall make return to the Secretary of War, who shall, at the session of Congress holden next after, or at the time of such receipt, make return thereof, with such observations as he may think proper to subjoin, that the proper order may be taken thereon by Congress.

Approved, April 18, 1796.

## ACTS PASSED AT THE SECOND SESSION.

An Act to amend the act, entitled "An act for the more general promulgation of the Laws of the United States."

*Be it enacted, &c.*, That the Secretary for the Department of State shall cause to be included in the edition of the Laws of the United States, directed to be printed by the said act, the laws of the United States, which may be passed during the present session of Congress: *Provided*, The same can be done at an expense which he shall judge reasonable.

Approved, December 21, 1796.

An Act giving effect to the Laws of the United States within the State of Tennessee.

*Be it enacted, &c.* That all the laws of the United States, which are not locally inapplicable, ought to have, and shall have, the same force and effect within the State of Tennessee, as elsewhere within the United States.

SEC. 2. And to the end that the act, entitled "An act to establish the judicial courts of the United States," may be duly administered within the State of Tennessee, *Be it enacted*, That the said State shall be one district, to be denominated Tennessee district; and there shall be a district court therein, to consist of one judge, who shall reside in the said district, and be called the district judge, and annually hold four sessions: the first to commence on the first Monday in April next, and the three other sessions, progressively, on the like Mondays of every three calendar months afterwards. The said district courts shall be held alternately at Knoxville and Nashville, beginning

at Nashville. And the said judge shall, in all things, have and exercise the same jurisdiction and powers which, by law, are given to the judge of the district of Kentucky.

SEC. 3. *And be it further enacted*, That there shall be allowed to the judge of the said district court the yearly compensation of eight hundred dollars, to commence from the date of his appointment, to be paid quarterly at the Treasury of the United States. And to the end, that the laws providing for the collection of the duties imposed by law on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships and vessels, may be carried into effect, in the said State of Tennessee,

SEC. 4. *Be it further enacted*, That for the due collection of the said duties, the said State of Tennessee shall be one district, and a collector shall be appointed to reside at Palmyra, which shall be the only port of entry or delivery within the said district, of any goods, wares, or merchandise, not the growth or manufacture of the United States; and the said collector shall have and exercise all the powers which any other collector hath, or may legally exercise, for collecting the duties aforesaid; and in addition to the fees, by law provided, shall be paid the yearly compensation of one hundred dollars.

Approved, January 31, 1797.

An Act to augment the compensation of the Attorney General of the United States.

*Be it enacted, &c.*, That the compensation allowed by law to the Attorney General of the United States shall be, and the same is hereby aug-



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mented, by an addition of the sum of five hundred dollars per annum, to commence on the first day of January in the present year, and payable quarter-yearly, at the public treasury.

Approved, March 2, 1797.

An Act to continue in force, for a limited time, the act, in addition to the act, for the punishment of certain crimes against the United States.

*Be it enacted, &c.,* That the act, entitled "An act in addition to the act for the punishment of certain crimes against the United States," shall continue and be in force for and during the term of two years, and from thence to the end of the next session of Congress, and no longer.

Approved, March 2, 1797.

An Act making provision for the further accommodation of the household of the President of the United States.

*Be it enacted, &c.,* That, after the third day of March next, the President of the United States be, and he hereby is, authorized and empowered to cause to be sold, such articles furnished by the United States for the President's household, as may be decayed, out of repair, or unfit for use; and that the proceeds of such sale, and so much of a sum, not exceeding fourteen thousand dollars in addition thereto, out of the proceeds of the duties on imports and tonnage which may accrue during the present year, as the President of the United States may judge necessary, be, and hereby are, appropriated for the accommodation of the household of the President, to be laid out and expended for such articles of furniture as he shall direct.

Approved, March 2, 1797.

An Act in addition to an act, entitled "An act concerning the registering and recording of ships or vessels," and to an act, entitled "An act for enrolling and licensing ships or vessels employed in the coasting trade and fisheries, and for regulating the same."

*Be it enacted, &c.,* That, whenever it shall appear, by satisfactory proof, to the Secretary of the Treasury, that any ship or vessel hath been sold and transferred by process of law, and that the register, certificate of enrolment, or license, as the case may be, of such ship or vessel is retained by the former owners, it shall be lawful for the said Secretary to order and direct the collector of the district to which such ship or vessel may belong, to grant a new register, certificate of enrolment, or license, as the case may be, on the owners, under such sale, complying with such terms and conditions as are by law required for granting of such papers; excepting only the delivering up of the former certificate of registry, enrolment, or license, as the case may be: *Provided, nevertheless,* That nothing in this act contained shall be construed to remove the liability of any person or persons to any penalty for not surrendering up the papers belonging to any ship or vessel, on a transfer or sale of the same.

Approved, March 2, 1797.

An Act making appropriations for the support of Government, for the year one thousand seven hundred and ninety-seven.

*Be it enacted, &c.,* That, for the expenditure of the civil list; for the extra expenses of foreign intercourse; for the support of the mint establishment, light-houses, beacons, buoys, and public piers, for the year one thousand seven hundred and ninety-seven; and to satisfy certain miscellaneous claims, stated in the report of the Secretary of the Treasury, of the fifteenth day of December, one thousand seven hundred and ninety-six, together with the incidental and contingent expenses of the several Departments, and the offices thereof, the following sums be respectively appropriated; that is to say:

For the compensations granted by law to the President and Vice President of the United States, thirty thousand dollars.

For the like compensations to the members of the Senate and House of Representatives, their officers and attendants, estimated for a session of four months' continuance, one hundred and thirty-eight thousand seven hundred and eighty-six dollars and sixty-seven cents.

For the expenses of fire-wood, stationery, printing-work, and all other contingent expenses of the two Houses of Congress, twelve thousand dollars.

For the compensations granted by law to the Chief Justice, Associate Judges, District Judges, and Attorney General, forty-four thousand nine hundred dollars.

For defraying the expenses of clerks of courts, jurors, and witnesses, in aid of the fund arising from fines, forfeitures, and penalties; and, likewise, for defraying the expenses of prosecutions for offences against the United States, and for safe-keeping of prisoners, thirty thousand dollars.

For compensation to the Secretary of State, clerks, and persons employed in that Department, seven thousand seven hundred and ninety-two dollars and sixty-four cents.

For incidental and contingent expenses in the said Department, eight thousand seven hundred and five dollars.

For compensation to the Secretary of the Treasury, clerks, and persons employed in his office, eight thousand seven hundred and fifty dollars.

For expense of stationery, printing, and all other contingent expenses in the office of the Secretary of the Treasury, five hundred dollars.

For compensation to the Comptroller of the Treasury, clerks, and persons employed in his office, eleven thousand seven hundred and fifty dollars.

For expense of stationery, printing, and all other contingent expenses in the Comptroller's office, eight hundred dollars.

For compensation to the Treasury, and clerks employed in his office, four thousand five hundred and fifty dollars.

For expense of firewood, stationery, printing, rent, and other contingencies in the Treasurer's office, six hundred dollars.

For compensation to the Auditor of the Treas-

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surry, clerks, and persons employed in his office, eleven thousand eight hundred and twenty-five dollars.

For expense of stationery, printing, and other contingent expenses in the Auditor's office, seven hundred and fifty dollars.

For compensation to the Commissioner of the revenue, clerks, and persons employed in his office, five thousand four hundred and twenty-five dollars.

For expense of stationery, printing, and all other contingent expenses in the office of the Commissioner of the Revenue, four hundred dollars.

For compensation to the Register of the Treasury, clerks, and persons employed in his office, fifteen thousand four hundred and twenty-five dollars.

For expense of stationery, printing, and all other contingent expenses in the Register's office, (including books for the public stocks, and for the arrangement of the marine papers,) two thousand eight hundred dollars.

For compensation to the Purveyor of Public Supplies, two thousand dollars, and five hundred dollars for a clerk.

For compensation to the Secretary to the Commissioners of the Sinking Fund, including his salary from the time of his appointment to the thirty-first day of December, one thousand seven hundred and ninety-seven, four hundred and nineteen dollars and seventeen cents.

For the payment of rent for the several houses employed in the Treasury Department, (except the Treasurer's office,) two thousand six hundred and ninety-three dollars and thirty-three cents.

For expense of firewood and candles in the several offices of the Treasury Department, (except the Treasurer's office,) three thousand five hundred dollars.

For defraying the expense incident to the stating and printing the public accounts for the year one thousand seven hundred and ninety seven, one thousand dollars.

For the payment of certain incidental and contingent expenses of the Treasury Department, in the year one thousand seven hundred and ninety-six, beyond the sum which was appropriated, one thousand five hundred dollars.

For compensation to the several Loan officers, thirteen thousand two hundred and fifty dollars.

For clerk-hire and stationery to the Commissioners of Loans, for the year one thousand seven hundred and ninety-seven, twelve thousand dollars.

For compensation to the Secretary of War, clerks, and persons employed in his office, eight thousand dollars.

For expense of firewood, stationery, printing, rent, and other contingent expenses of the office of the Secretary of War, two thousand dollars.

For compensation to the Accountant of the War Department, clerks, and persons employed in his office, seven thousand six hundred and fifty dollars.

For contingent expenses in the office of the Accountant of the War Department, six hundred dollars.

For compensation to the Surveyor General, two thousand dollars.

For compensation to the assistant surveyors, chain carriers, axe-men, and other persons employed in carrying into effect the surveys to be made by the act, entitled "An act providing for the sale of the lands of the United States, in the territory northwest of the river Ohio and above the mouth of Kentucky river, twenty-five thousand dollars.

For compensation to the Governor, Secretary, and Judges, of the territory northwest of the river Ohio, five thousand one hundred and fifty dollars.

For expenses of stationery, office rent, printing patents for land, and other contingent expenses in the said territory, three hundred and fifty dollars.

For the payment of sundry pensions granted by the late Government, one thousand one hundred and thirteen dollars and thirty-three cents.

For the annual allowance to the widow and orphan children of Colonel John Harding, and to the orphan children of Major Alexander Trueman, by the act of Congress of the twenty-seventh of February, one thousand seven hundred and ninety-three, one thousand seven hundred and fifty dollars.

For the annual allowance for the education of Hugh Mercer, son of the late Major General Mercer, by the act of Congress of the second of March, one thousand seven hundred and ninety-three, four hundred dollars.

For defraying the expenses of foreign intercourse, for the year one thousand seven hundred and ninety-seven, beyond the annual appropriations authorized by the act of Congress, passed the first day of July, one thousand seven hundred and ninety, entitled "An act providing the means of intercourse between the United States and foreign nations," seventeen thousand nine hundred dollars.

For compensations to the following officers of the Mint: The director, two thousand dollars; the treasurer, one thousand two hundred dollars; the assayer, one thousand five hundred dollars; the chief coiner, one thousand five hundred dollars; the melter and refiner, one thousand five hundred dollars; the engraver, one thousand two hundred dollars; three clerks, one at seven hundred dollars, and two at five hundred dollars each, one thousand seven hundred dollars.

For the wages of persons employed in the Mint, at the different branches of refining, melting, carpenter's, millwright's, and smith's work, including the sum of eight hundred dollars per annum, allowed to an assistant coiner and die-forger, who also oversees the execution of the iron work, seven thousand dollars.

For the payment of a deficiency which has arisen in the Mint, in coining the precious metals, by reason of wastage, the sum of one thousand eight hundred and forty-five dollars and ninety-

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six cents; and for the payment of a deficiency which has arisen by reason of the loss of a quantity of silver, the further sum of nine hundred and seventy-four dollars and seventy-six cents.

For the purchase of ironmongery, lead, wood, coals, stationery, office furniture, and for all other contingencies for the establishment of the Mint, seven thousand four hundred dollars.

For the discharge of such demands against the United States, on account of the Civil Department, not otherwise provided for, as shall be ascertained and admitted in due course of settlement at the Treasury, and which are of a nature, according to the usage thereof, to require payment in specie, one thousand dollars.

For the maintenance and support of light-houses, beacons, buoys, and public piers, and stake-ages of channels, bars, and shoals, for the year one thousand seven hundred and ninety-seven, twenty-eight thousand five hundred dollars.

For completing a light-house on the island of Seguin, two thousand one hundred and seventy dollars.

For completing the payment due for building the light-house on Baldhead, North Carolina, one thousand three hundred and fifty-nine dollars and fourteen cents.

For completing a light-house on Montauk point, two thousand seven hundred and forty dollars and sixty-seven cents.

For the balance carried to the "Surplus Fund," of an appropriation for building a light-house on Montauk point, thirteen thousand dollars.

For extra clerkship, necessary for a part of the present year in the Loan office, for consolidating the accounts of assumed and original debt, agreeable to the thirteenth section of the act passed the third of March, one thousand seven hundred and ninety-five, two thousand five hundred dollars.

For the payment of the representatives of Samuel Patterson, late Commissioner of the Loan office for the State of Delaware, two hundred and seventy-two dollars and eighty-nine cents.

For the payment of a balance due to James O'Hara, late agent for the Quartermaster's department, two hundred and thirty-five dollars and eighty-one cents.

For the payment of a balance due to Timothy Pickering, as commissioner appointed to hold the Indian treaties at Canandaigua and Oneida, three thousand four hundred and sixty-three dollars and twelve cents.

For compensation to persons employed in bringing votes to the seat of Government for electors of the President and Vice President of the United States, one thousand six hundred dollars.

For making good certain deficiencies arising from the balance of moneys of various appropriations, being carried to the credit of the "Surplus Fund," in pursuance of the sixteenth section of the act passed the third of March, one thousand seven hundred and ninety-five, viz :

For payment of the clerks employed by the Commissioners of Loans, for the State of Massachusetts, New York, and North Carolina, for the quarter ending the thirtieth of March, one thou-

sand seven hundred and ninety-five, seven hundred and eighty-nine dollars and seventy cents.

For the payment of a balance due to Timothy Pickering, Beverly Randolph, and Benjamin Lincoln, commissioners appointed to negotiate and treat with the Indians, northwest of the river Ohio, on the second day of March, one thousand seven hundred and ninety-three, three thousand two hundred and forty-seven dollars and fifty-six cents.

For the discharge of such miscellaneous demands against the United States, not otherwise provided for, as shall have been admitted in due course of settlement at the Treasury, and which are of a nature, according to the usage thereof, to require payment in specie, four thousand dollars.

SEC. 2. *And be it further enacted*, That the several appropriations hereinbefore made, shall be paid and discharged out of the fund of six hundred thousand dollars, reserved by the act "making provision for the debt of the United States;" together with so much as may be necessary, of the proceeds of the duties on imports and the tonnage of ships and vessels, and the duties on domestic distilled spirits and stills, which shall accrue until the close of the present year.

Approved, March 3, 1797.

An Act relative to the compensations and duties of certain officers employed in the collection of impost and tonnage.

*Be it enacted, &c.*, That, in lieu of the commissions heretofore established by law, there shall be allowed to the collectors of the duties of impost and tonnage, on all moneys by them respectively received on account of the duties aforesaid arising on tonnage, and on goods, wares, and merchandise, imported after the last day of March in the present year, as follows: to wit,

To each of the collectors of the districts of Pennsylvania and New York, one quarter per cent.

To each of the collectors of the districts of Boston and Charlestown, and of Baltimore, one half per cent.

To each of the collectors of the districts of Charleston, Salem, and of Norfolk and Portsmouth, seven-eighths of one per cent.

To each of the collectors of the districts of Alexandria and Savannah, one per cent.

To the collector of the district of Newburyport, one and one-fourth per cent.

To each of the collectors of the districts of Portsmouth, Portland, Newport, Providence, and Newhaven, one and one-half per cent.

To each of the collectors of the districts of Georgetown (in Maryland) and Marblehead, two and one-half per cent.

To each of the collectors of the districts of New London, Biddeford, Bath and Wiscasset, two per cent.

And to each of the collectors of the districts of Tappahannock, Vermont, Champlain, Gloucester, Ipswich, Plymouth, Barnstable, Nantucket, Edgartown, New Bedford, Dighton, York, Pe-

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nobscot, Frenchman's Bay, Machias, Passamaquoddy, Waldoborough, Middletown, Fairfield, Sag Harbour, Hudson, Perth-Amboy, Burlington, Bridgetown, Little-Egg Harbor, Wilmington (in Delaware,) Havre-de-Grace, Chester, Oxford, Vienna, Snow Hill, Annapolis, Nottingham, Nanjemoy, Bermuda Hundred, Hampton, Yorktown, Yeocomico, Dumfries, Foley Landing, Cherrystone, South Quay, Kentucky, Wilmington (North Carolina,) Newbern, Washington, Edenton, Camden, Georgetown (South Carolina,) Beaufort, Sunbury, Brunswick, St. Mary's, Hardwick, and Tennessee, three per cent.

SEC. 2. *And be it further enacted*, That, from and after the last day of March in the present year, in lieu of the yearly allowances heretofore established by law, there shall be yearly allowed to the following officers the sums following: to wit,

To each of the collectors of the districts of Annapolis, Havre-de-Grace, Gloucester, South Quay, Yeocomico, Tappahannock, Newbern, Edenton, Camden, Wilmington (North Carolina,) Nanjemoy, Ipswich, York, Washington, Passamaquoddy, Saint Mary's, Vermont, Champlain, and Bermuda Hundred, the sum of two hundred and fifty dollars.

To each of the collectors of the districts of Oxford, Vienna, Chester, Sag Harbor, Nottingham, Hampton, York Town, Dumfries, Foley Landing, Cherrystone, Beaufort, Brunswick, and Hardwick, the sum of two hundred dollars.

To each of the collectors of the districts of Perth Amboy, Kentucky, Portsmouth, Hudson, Plymouth, Barnstable, Nantucket, Edgartown, New Bedford, Dighton, Penobscot, Frenchman's Bay, Machias, Newport, Middletown, Fairfield, Burlington, Bridgetown, Great Egg Harbor, Little Egg Harbor, Wilmington (in Delaware,) Snow Hill, Georgetown (in South Carolina,) Sunbury, Tennessee, Marblehead, Newhaven, and Georgetown (in Maryland,) the sum of one hundred and fifty dollars.

To each of the collectors of Biddeford, Bath, and Wiscasset, one hundred dollars.

To the naval officer of the district of Portsmouth, two hundred dollars.

To each of the naval officers of the districts of Newburyport, Salem, Newport, Providence, Wilmington (in North Carolina,) and Savannah, the sum of one hundred and fifty dollars.

To each of the surveyors of Salem, Portsmouth, Newburyport, Bristol, Warren, East Greenwich, Saint Mary's, Suffolk, Smithfield, Richmond, Petersburg, Fredericksburg, Wilmington, Beaufort, and Swansborough, the sum of two hundred and fifty dollars.

To each of the surveyors of Newport, Providence, Thomastown, Beverly, Newhaven, Middletown, Hartford, Saybrook, Albany, Hudson, Lewellensburg, Portland, North Kingston, Pawhatuck, Patuxet, New London, Stonington, Town Creek, Bermuda Hundred, West Point, Urbanna, Port Royal, Alexandria, Windsor, Hertford, Plymouth, Skewarky, Murfreesborough, Bennet's Creek, Winton, Nixonton, New Biggen Creek,

Pasquotank river, Indian Town, Currituck inlet, Savannah, and New Brunswick (in New Jersey,) the sum of one hundred and fifty dollars.

SEC. 3. *And be it further enacted*, That, from and after the last day of March in the present year, in lieu of the sum heretofore established by law, there shall be paid to each inspector, for every day he shall be employed in aid of the customs, a sum not exceeding two dollars; and that, instead of the sum heretofore established by law to be paid for the weighing of every one hundred and twelve pounds, in the districts of Pennsylvania and New York there shall be paid one cent, in the districts of Boston and Charlestown, and of Baltimore, one cent and a quarter; and the weighers in the several districts shall defray all expense of laborers in weighing, and shall mark on each cask, box, bag, or package, the weight thereof, where the same is not less than three hundred pounds, if thereunto required by the owner at the time of weighing.

SEC. 4. *And be it further enacted*, That, from and after the last day of March in the present year, all fees arising on the exportation of any goods, wares, or merchandise, on which drawbacks are allowed, shall be equally shared among the collector, naval officer, and surveyor, where there are such officers at the port where such fees are paid, to be accounted for quarterly by the collector or naval officer who shall receive the same; and where there is no naval officer, such fees shall be divided equally between the collector and the surveyor who may have been concerned in attending to such exportation. And the surveyors shall pay their proportion of the expense of stationery and printing.

SEC. 5. *And be it further enacted*, That, previous to a clearance being granted to any vessel outward bound, the legal fees which shall have accrued on such vessel, shall be paid at the office or offices where such fees are respectively payable; and receipts for the same shall be produced to the collector or other officer whose duty it may be to grant clearances, before such clearance is granted.

SEC. 6. *And be it further enacted*, That a surveyor be appointed for the port of New Brunswick in New Jersey, to reside at New Brunswick. And the port of Marblehead shall hereafter be a port at which vessels arriving from beyond the Cape of Good Hope may enter and unlade.

Approved, March 3, 1797.

An Act for raising a further sum of money, by additional duties on certain articles imported, and for other purposes.

*Be it enacted, &c.*, That, from and after the thirtieth day of June next the following duties in addition to those now in force, and payable on the several articles hereinafter enumerated, shall be laid, levied, and collected upon those articles respectively, at their importation into the United States from any foreign port or place, viz: upon all brown sugar, per pound one half cent; upon

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all bohea tea, per pound, two cents; upon all molasses, per gallon, one cent; and upon all velvets and velverets, whether printed, stained, colored, or otherwise, and upon all muslins and muslinets, and other cotton goods, not printed, stained or colored, two and a half per centum, ad valorem.

SEC. 2. *And be it further enacted*, That, from and after the said thirtieth day of June next, the duties now in force and payable upon sugar-candy and cocoa imported into the United States shall cease; and that, in lieu thereof, there shall thenceforth be levied and collected the following duty: viz., upon all sugar-candy, at its importation into the United States from any foreign port or place, nine cents per pound; and upon all cocoa upon its importation as aforesaid, two cents per pound.

SEC. 3. *And be it further enacted*, That an addition of ten per centum shall be made to the several rates of duties above specified and imposed, in respect to all such goods, wares, and merchandise, as aforesaid, as shall, after the said last day of June next, be imported in ships or vessels not of the United States.

SEC. 4. *And be it further enacted*, That the duties laid by this act, shall be levied and collected in the same manner, and under the same regulations and allowances as to drawbacks, mode of security, and time of payment, respectively, with the several duties now in force on the respective articles hereinbefore enumerated.

SEC. 5. *And be it further enacted*, That, on account of the additional duties laid on brown sugar and molasses by this act, the following sums, respectively, shall, from and after the last day of December next, be added to drawbacks now allowed and paid by law on sugar refined within the United States, and exported therefrom, and on spirits distilled from molasses within the United States, and exported therefrom, viz: on all sugar so refined and exported, one cent per pound; and on all spirits so distilled and exported, one cent per gallon; which additional drawbacks shall be allowed and paid according to the regulations now established by law, respecting the present drawbacks allowed on the said articles.

SEC. 6. *And be it further enacted*, That the proceeds of the duties laid by this act, shall be solely appropriated to the following purpose, that is to say: First, for the payment of the principal of the present foreign debt of the United States. Secondly, for the payment of the principal of the debt due by the United States to the Bank of the United States.

Approved. March 3, 1797.

An Act repealing in part the "Act concerning the duties on spirits distilled within the United States," passed the eighth of May, one thousand seven hundred and ninety-two; and imposing certain duties on the capacity of stills of a particular description.

*Be it enacted, &c.*, That, in respect to stills employed in distilling spirits from materials of the

growth and produce of the United States, at any other place than a city, town, or village, or at any distillery in a city, town, or village, at which there are one or more stills, which singly, if only one, or together, if more than one, are of less capacity than four hundred gallons, the option and alternative of paying a duty of seven cents for every gallon of spirits distilled in such stills, as secured and allowed by the first section of the act, entitled "An act concerning the duties on spirits distilled within the United States," passed on the eighth day of May, one thousand seven hundred and ninety-two, be, and the same is hereby, declared to be, abolished, from and after the thirtieth day of June ensuing.

SEC. 2. *And be it further enacted*, That, in lieu of the option and alternative aforesaid, the proprietor or possessor of any such still or stills, as are above mentioned, shall, and may, after the first day of July ensuing, be charged with and shall pay the following duties, to wit: For a license for the employment of each and every such still, for and during the term of two weeks, six cents per gallon, according to the capacity or content of every such still, including the head thereof. For a license for and during the term of one month, ten cents per gallon, as aforesaid. For a license for and during the term of two months, eighteen cents per gallon, as aforesaid. For a license for and during the term of three months, twenty-four cents per gallon, as aforesaid. For a license for and during the term of four months, thirty cents per gallon, as aforesaid. For a license for and during the term of five months, thirty-six cents per gallon, as aforesaid. And for a license for and during the term of six months, forty-two cents per gallon, as aforesaid.

SEC. 3. *And be it further enacted*, That upon the sale or transfer of any still licensed according to this act, the right and privilege of using such still during the time for which such license may remain in force, shall accrue to the new proprietor or possessor, due entry of the sale or transfer being previously made with the proper officer of inspection.

SEC. 4. *And be it further enacted*, That every distiller, as aforesaid, who shall commence any distillation, prior to obtaining a license therefor, shall pay a duty equal to that demandable in consequence of a license for six months; and no new license shall be granted for any still until all duties which have accrued thereon shall have been paid and discharged.

SEC. 5. *And be it further enacted*, That the several provisions and clauses of the acts heretofore passed, and remaining in force, for laying, securing, and collecting duties on spirits distilled within the United States, and on stills; for regulating the exportation of such spirits, and for making an allowance to the exporters of the same, by way of drawback, shall extend to and remain in full force, with respect to the several provisions and clauses of this act, subject only to the alterations hereby made.

Approved, March 3, 1797.

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An act authorizing the President of the United States to apply a further sum to the expense of negotiations with the Dey and Regency of Algiers.

*Be it enacted, &c.,* That the President of the United States be, and he is hereby, authorized to apply a sum not exceeding two hundred and eighty thousand two hundred and fifty-nine dollars and three cents to the expenses which may have been incurred in any negotiations with the Dey and Regency of Algiers, beyond the sums heretofore appropriated; and that the said sum of two hundred and eighty thousand two hundred and fifty-nine dollars and three cents be, and the same is hereby, appropriated for that purpose.

*SEC. 2. And be it further enacted,* That a further sum, not exceeding ninety-six thousand two hundred and forty-six dollars and sixty-three cents, be, and the same is hereby, appropriated for discharging the two first years' annuity to the Dey and Regency of Algiers, pursuant to treaty, in addition to the sum appropriated for that purpose by the act of the sixth of May, one thousand seven hundred and ninety-six.

*SEC. 3. And be it further enacted,* That the said several sums shall be paid and discharged out of any moneys arising from the revenues of the United States, beyond the appropriations heretofore charged thereupon, to the end of the year one thousand seven hundred and ninety-seven.

Approved, March 3, 1797.

An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned.

*Be it enacted, &c.,* That, whenever any person or persons who shall have incurred any fine, penalty, forfeiture, or disability, or or shall have been interested in any vessel, goods, wares, or merchandise, which shall have been subject to any seizure, forfeiture, or disability, by force of any present or future law of the United States for the laying, levying, or collecting, of any duties or taxes, or by force of any present or future act concerning the registering and recording of ships or vessels, or any act concerning the enrolling and licensing ships or vessels employed in the coasting trade or fisheries, and/or regulating the same, shall prefer his petition to the judge of the district, in which such fine, penalty, forfeiture, or disability, shall have accrued, truly and particularly setting forth the circumstances of his case, and shall pray that the same may be mitigated or remitted, the said judge shall inquire, in a summary manner, into the circumstances of the case, first causing reasonable notice to be given to the person or persons claiming such fine, penalty, or forfeiture, and to the attorney of the United States, for such district, that each may have an opportunity of showing cause against the mitigation or remission thereof; and shall cause the facts which shall appear, upon such inquiry, to be stated and annexed to the petition, and direct their transmission to the Secretary of the Treasury of the United States, who shall, thereupon, have power to mitigate or remit such fine, forfeiture, or penalty, or remove

such disability, or any part thereof, if, in his opinion, the same shall have been incurred without wilful negligence, or any intention of fraud in the person or persons incurring the same; and to direct the prosecution, if any shall have been instituted for the recovery thereof, to cease and be discontinued, upon such terms and conditions as he may deem reasonable and just.

*SEC. 2. And be it further enacted,* That the judicial courts of the several States, to whom, by any of the said acts, a jurisdiction is given, shall and may exercise all and every power in the cases cognizable before them, for the purpose of obtaining a mitigation or remission of any fine, penalty, or forfeiture, which may be exercised by the judges of the district courts in cases depending before them.

*SEC. 3. Provided always, and be it further enacted,* That nothing herein contained shall be construed to affect the right or claim of any person to that part of any fine, penalty, or forfeiture, incurred by the breach of any of the laws aforesaid, which such person shall or may be entitled to, by virtue of the said laws, in cases where a prosecution has been commenced, or information has been given before the passing of this act or any other act relative to the mitigation or remission of such fines, penalties, or forfeitures: the amount of which right and claim shall be assessed and valued by the proper judge, or court, in a summary manner.

*SEC. 4. And be it further enacted,* That this act shall continue in force for the term of two years, and from thence to the end of the next session of Congress, and no longer.

Approved, March 3, 1797.

An Act to authorize the receipt of evidences of the Public Debt, in payment for the lands of the United States.

*Be it enacted, &c.,* That the evidences of the public debt of the United States shall be receivable in payment for any of the lands which may be hereafter sold, in conformity to the act, entitled "An act providing for the sale of the lands of the United States, in the territory northwest of the river Ohio, and above the mouth of Kentucky river," at the following rates, viz: The present foreign debt of the United States, and such debt or stock as at the time of payment shall bear an interest of six per centum per annum, shall be received at their nominal value; and the other species of debt, or stock of the United States, shall be received at a rate bearing the same proportion to their respective market price at the seat of Government, at the time of payment, as the nominal value of the above-mentioned six per centum stock shall, at the same time, bear to its market price at the same place—the Secretary of the Treasury, in all cases, determining what such market price is.

Approved, March 3, 1797.

An Act to alter the time for the next meeting of Congress.

*Be it enacted, &c.,* That, after the end of the



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present session, the next meeting of Congress shall be on the first Monday of November, in the present year.

Approved, March 3, 1797.

An Act to amend and repeal, in part, the act, entitled "An act to ascertain and fix the Military Establishment of the United States."

*Be it enacted, &c.,* That the third section of the act passed the thirtieth of May, one thousand seven hundred and ninety-six, entitled "An act to ascertain and fix the Military Establishment of the United States," together with all other parts thereof which relate to provision made for the major general and his staff, be repealed; and that all such parts of the said act, together with so much of the twenty-third section as may be construed to affect the brigadier, and the whole of the eleventh section of the said act be, and are hereby, repealed.

Sec. 2. *And be it further enacted,* That there shall be one brigadier general, who may choose his brigade major and inspector from the captains and subalterns in the line, (to each of whom there shall be allowed the monthly pay of twenty-five dollars, in addition to his pay in the line, and two rations extraordinary per day; and whenever forage shall not be furnished by the public, to ten dollars per month in lieu thereof.) That there shall be one judge advocate, who shall be taken from the commissioned officers of the line, and shall be entitled to receive two rations extra per day, and twenty-five dollars per month, in addition to his pay in the line; and whenever forage shall not be furnished by the public, to ten dollars per month in lieu thereof.

Sec. 3. *And be it further enacted,* That there shall be one quartermaster general, and one paymaster general, who shall receive the same pay and emoluments, respectively, which those officers have heretofore been allowed by law.

Sec. 4. *And be it further enacted,* That, from and after the thirtieth day of June next, the monthly pay of the lieutenants shall be thirty dollars, and that of the ensigns twenty-five dollars; that to the brigadier, while commander-in-chief, and to each officer, whilst commanding a separate post, there shall be allowed twice the number of rations to which they would otherwise be entitled.

Sec. 5. *And be it further enacted,* That the majors be entitled to receive four rations per day, for their daily subsistence.

Sec. 6. *And be it further enacted,* That, to each commissioned officer who may have been deranged under the act "to ascertain and fix the Military Establishment of the United States," there shall be paid the amount of six months' pay and subsistence.

Approved, March 3, 1797.

An Act making appropriations for the Military and Naval Establishments, for the year one thousand seven hundred and ninety-seven.

*Be it enacted, &c.,* That, for the support of the Military and Naval Establishments, for the year

one thousand seven hundred and ninety-seven, the following sums be respectively appropriated—that is to say:

For the pay of the Army of the United States, the sum of two hundred and fifty-six thousand four hundred and fifty dollars.

For the subsistence of the officers of the army, a sum not exceeding forty-seven thousand three hundred and ninety-five dollars.

For the subsistence of the non-commissioned officers and privates, a sum not exceeding two hundred and forty-five thousand two hundred and eighty-three dollars.

For forage, the sum of fourteen thousand nine hundred and four dollars.

For clothing, a sum not exceeding eighty-three thousand and fifty dollars.

For the purchase of horses and equipments for the cavalry, sixteen thousand and eighty-five dollars.

For the hospital department, a sum not exceeding ten thousand dollars.

For the ordnance department, a sum not exceeding forty thousand dollars.

For the fortifications of the ports and harbors of the United States, a sum not exceeding twenty-four thousand dollars.

For the quartermaster's department, the Indian department, the defensive protection of the frontiers, bounties, and all the contingent expenses of the War Department, a sum not exceeding three hundred thousand dollars.

To make good deficiencies in the appropriations in the Military Establishment, for the year one thousand seven hundred and ninety-six, the sum of seventy-six thousand three hundred and twelve dollars.

For the pay and subsistence of three captains in the Naval Department, and for the pay of laborers employed in taking care of the frigates, the sum of five thousand dollars.

For finishing the frigates United States, Constitution, and Constellation, the sum of one hundred and seventy-two thousand dollars.

For the payment of military pensions, including an allowance to the widows and children of officers, under an act entitled "An act in addition to the act for making further provision for the protection of the frontiers of the United States," the sum of ninety-six thousand three hundred and fifty dollars.

To satisfy and discharge claims for militia services on the frontiers of Georgia, the sum of seventy thousand four hundred and ninety-six dollars and thirty-five cents: for militia services on the frontiers of Kentucky, three thousand eight hundred and thirty-six dollars and seventy-six cents: and for militia services on the frontiers of South Carolina, the sum of forty-eight thousand four hundred dollars and twenty-five cents.

For the payment of General John Sevier and his brigade, for services in the year 1793, the sum of twenty-two thousand eight hundred and sixteen dollars and thirty-five cents.

For the payment of six months' pay and subsistence to each of the officers discharged under

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the act, "to ascertain and fix the Military Establishment of the United States," a sum not exceeding three thousand dollars: which sums shall be solely applied to the objects for which they are respectively appropriated.

SEC. 2. *And be it further enacted*, That the several appropriations, hereinbefore made, shall be paid and discharged out of the surplus of revenue and income beyond the appropriations heretofore charged thereon, to the end of the present year.

Approved, March 3, 1797.

An Act to suspend in part the act, entitled "An act to alter and amend the act, entitled 'An act laying certain duties upon snuff and refined sugar,' and to grant relief in certain cases arising under the said act.

*Be it enacted, &c.*, That so much of the act entitled "An act to alter and amend the act, entitled 'An act laying certain duties upon snuff and refined sugar,'" as respects the duties therein laid upon mills and implements employed in the manufacture of snuff, and the drawbacks therein allowed upon the exportation of snuff manufactured within the United States, be suspended from the passing of this act until the end of the next session of Congress.

SEC. 2. *And be it further enacted*, That in all cases of licenses granted under the said act, where, by failure of water, or other casualty occurring to the mill or mills, or to the implements, or to the proprietor or other person licensed, the use and benefit of such license has been lost, or considerably interrupted, and the duties thereon required or paid may be considered as peculiarly unequal and injurious, the Secretary of the Treasury, upon due representation and proof of such case, shall be and he hereby is authorized to cause to be refunded or remitted, such part of the duties paid or secured on such license, as shall appear just and reasonable under the circumstances of the case, and having regard to the loss, injury, or peculiar hardship sustained as aforesaid.

Approved, March 3, 1797.

An Act in addition to the act, entitled "An act to establish the Post Office and Post Roads within the United States."

*Be it enacted, &c.*, That the following post roads be discontinued, namely: From Blue-hill, in Maine, to Penobscot, Frankfort, and Belfast; from Bardstown, in Kentucky, to Nashville, in Tennessee; from Taunton to Providence; from Bethlehem, by Reading, to Lancaster; from Elkton to Warwick; from Georgetown to Cheraw Court-house; from Bethlehem to Wilkesbarre; from Plymouth to Windsor; from Winton, by the bridge on Bennett's creek, to R. Mitchell's; from Mecklenburg to Halifax Court-house; from Richmond, by New Castle, to Aylett's Warehouse; from Morgantown, by Lincolnton, to Pinckney Court-house; from Springfield, by Northampton, Brattleborough and Charleston, by Windsor, in Vermont, to Hanover.

SEC. 2. *And be it further enacted*, That the following be established as post roads, namely:

From Blue-hill, in Maine, through Castine, Penobscot, Buckston, Frankfort and Prospect, to Belfast; from Hallowell, in Maine, to Farmington, on Sandy river; from Portland, in Maine, by Falmouth, Gorham, Buxton and Standish, to Limerick; from Berwick, in Maine, through Lebanon, Shapleigh and Parsonfield, to Limerick; from Standish, by Flintstown, to Fryburg Academy; from Sandwich, by Tamworth and Conway, in New Hampshire, to Fryburg, in Massachusetts; from Portsmouth to Dover, in New Hampshire; from Newburyport to Haverhill; and from Haverhill, by Kingston, Exeter, Newmarket and Durham, to Dover; from Yarmouth, by Dennis, Harwich and Chatham, to Truro; from Worcester, in Massachusetts, by Petersham and Northfield, to Brattleborough, in Vermont; from Newport, in Rhode Island, through Taunton, Norton, Mansfield and Sharon, to Boston; from Boston, through Charlestown, Medford, Woburn, Billerica, Chelmsford and Tyngsborough, in Massachusetts, to Amherst, in New Hampshire; from Windsor, in Vermont, by Royalton, Randolph, Williamston and Montpelier, to Burlington; from New Haven, in Connecticut, by such route as the postmaster shall deem expedient, to Litchfield and Sheffield, in Massachusetts; from New York, by Whiteplains, Bedford, Frederickstown, Dover, Sharon, Sheffield, Stockbridge, Pittsfield and Williamston, to Bennington in Vermont; from Lansingburg, in New York, by Waterford, Stillwater, Fort Edward, Whitehall-landing and Fairhaven, to Rutland, in Vermont; from New York to Hackensack, Paramus, New Antrim, thence to Chester and Goshen; from Lansingburg, by Salem, Fairhaven, Vergennes and Bason harbor, to Plattsburg; from Plattsburg to Pliny Moore's, in the town of Champlain; from Schenectady, by Ballston Springs and Glen's bridge, to Sandyhill; from Old Fort Schuyler, in New York, by Cincinnati, to Oxford Academy, on the Chenango; from Rome, in the State of New York, to Rotterdam, on the Oneida Lake; from Philadelphia to Tuckerton, in New Jersey; from Bristol, in Pennsylvania, to Burlington, in New Jersey; from Bethlehem, by Easton, to Wilkesbarre, in Pennsylvania; from Harrisburg upon the east side of the Susquehanna river, to Clark's ferry, at Petersburg, by Millerstown, Thompsonstown, Mifflintown, Lewiston, and Huntingdon, to Alexandria; from thence by Centre-furnace and Bellefont, to Milesburg, on the Bald-eagle river, at the mouth of Spring creek; from thence by Aaronsburg, Mifflinsburg, Louisburg (Deerston) and Northumberland, to Sunbury; and from thence down the east side of the Susquehanna river, to Harrisburg; from Somerset, through Connelsville, to Uniontown, and from Bedford, in Pennsylvania, the mail shall be carried through Somerset, to Greensburg, after the expiration of the present contract for carrying the mail; from Baltimore, by Ellicot's lower mills, Montgomery Court-house, and Charlesburg, to Leesburg in Virginia; from Morgantown, in Virginia, to Clarksburg, in Harrison county; from Leesburg, by Middleburg, in Loudoun county, by Fauquier Court-house to

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Culpeper Court-house; from Petersburg, by Sussex Court-house, and Southampton Court-house, to South Quay; from Richmond, by Hanover-town, to Aylett's warehouse; from Todd's bridge to King and Queen Court-house; from Halifax Court-house, in Virginia, by Danville, to Caswell Court-house, in North Carolina; from Newburn to Beaufort and Swansborough, the mail to go alternately; and from Wilmington, in North Carolina, by Georgetown to Charleston, in South Carolina; from Jonesburg, in North Carolina, by Northwest-river bridge, Great bridge, and Kempsville, to Norfolk; from Elizabeth City, in North Carolina, by New Lebanon, to Northwest-river bridge; from Morgantown, by Rutherfordton, to Spartan Court-house, in South Carolina, and from Charlotte, by Lincolnton, to Iredell; from Bethania, in North Carolina, by Grayson Courthouse, to Wythe Court-house in Virginia; from Mecklenberg Court-house, to return by Lunenberg Court-house and Edmonds's store, to Goldson's; from Augusta, in Georgia, by Robison's, at the White Ponds and Gillett's mill, to Coosawatchie, in South Carolina; from Moffet's store, in Tennessee, to Danville, in Kentucky; from Knoxville, by Southwest Point, and Fort Blount, to Nashville; from Winton, by Windsor, to Edenton; from Murfreesborough, by South Quay, to Suffolk, in Virginia; from Fayetteville to Pittsburg, in Chatham county; from Nottingham to Lower Marlborough in Maryland; from Benedict to Chaptico, by Charlotte-hall Academy; from Allen's fresh, in Maryland, by Laidlor's ferry, to Port Conway, in Virginia; from Waynesborough to Louisville, by Georgetown to Rock-landing, in Georgia, from Kanondaugua, in the State of New York, to Niagara; from Suffield, in Connecticut, by Northampton, Brattleborough and Charlestown, by Windsor, in Vermont, to Hanover; from Springfield, by West Springfield, to Northampton; and that the route of the mail, from Easton, on the Eastern-shore of Maryland, to Vienna, shall be through Newmarket.

Sec. 3. *And be it further enacted*, That the Postmaster General be authorized to expend, for clerk-hire, a sum not exceeding five hundred dollars, in addition to the sum heretofore allowed; and that he be authorized to charge the United States with two hundred and seventy-one dollars and fifty-two cents, for the occasional hire of extra clerks, from the first of January to the thirty-first of December, one thousand seven hundred and ninety-six.

Sec. 4. *And be it further enacted*, That, from and after the passing of this act, every person who shall procure, aid, advise, or assist in the doing or perpetration of any of the crimes or acts forbidden to be done or perpetrated by the act, entitled "An act to establish the post office and post roads within the United States," shall be subject to the same punishments and penalties as the persons are subject, who shall actually do, or perpetrate any of the acts or crimes forbidden by the said act.

Sec. 5. *And be it further enacted*, That, from and after the thirty-first day of March of the present year, instead of the compensation heretofore

allowed by law to the deputy postmasters, the Postmaster General be hereby authorized to allow to the deputy postmasters, respectively, such commission on the moneys arising from the postages of letters and packets, as shall be adequate to their respective services and expenses: *Provided*, That the said commission shall not exceed thirty per cent. on the first hundred dollars collected in one quarter, and twenty-five per cent. on a sum over one hundred, and not more than three hundred dollars; and twenty per cent. on any sum over four hundred and not exceeding two thousand dollars; and eight per cent. on any sum collected, being over two thousand four hundred dollars; except to the deputy postmasters who may be employed in receiving and despatching foreign mails, whose compensation may be augmented, not exceeding twenty-five dollars in one quarter; and excepting, to the deputy postmasters, at offices where the mail is regularly to arrive between the hours of nine o'clock at night and five o'clock in the morning; whose commission on the first hundred dollars collected in one quarter, may be increased to a sum not exceeding fifty per cent. The Postmaster General may allow to the deputy postmasters, respectively, a commission of fifty per cent. on the money arising from the postages of newspapers, magazines, and pamphlets; and to the deputy postmasters, whose compensation shall not exceed five hundred dollars in one quarter, two cents for every free letter delivered out of the office, excepting such as are for the deputy postmaster himself: *Provided*, That the authority given by this section to the Postmaster General to regulate the commissions to be allowed to the deputy postmasters, shall continue in force until the thirty-first day of March, one thousand seven hundred and ninety-eight, and no longer: And that it shall be his duty to report to the said session, the respective commissions which he shall have allowed, by virtue of the authority herein given.

Sec. 6. *And be it further enacted*, That no newspapers shall be received by the deputy postmasters, to be conveyed by post, unless they are sufficiently dried and enclosed in proper wrappers, on which, besides the direction, shall be noted the number of papers which are enclosed for subscribers, and the number for printers. The deputy postmasters shall form all newspapers deposited in their offices to be conveyed by post, into mails; and if any deputy postmaster shall open, or permit any mail of newspapers not directed to his office to be opened, he shall, on conviction thereof, forfeit for every such offence, a sum not exceeding twenty dollars; and any other person who shall open such mail of newspapers, on conviction thereof, shall forfeit a sum not exceeding twenty dollars for every such offence: *Provided*, That when mails are directed to places where no post office is kept, they may be opened at the post office most convenient to such place, and may also be opened where the direction is effaced.

Sec. 7. *And be it further enacted*, That this act shall not be construed to affect any existing contracts.

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SEC. 8. *And be it further enacted*, That it shall be the duty of the Postmaster General, to report annually to Congress every post road which shall not, after the second year, from its establishment, have produced one-third of the expense of carrying the mail on the same.

SEC. 9. *And be it further enacted*, That all letters and packets to George Washington, now President of the United States, after the expiration of his term of office, and during his life, shall be received and conveyed by post free of postage.

Approved, March 3, 1797.

- An Act to provide more effectually for the settlement of accounts between the United States and Receivers of public money.

*Be it enacted, &c.*, That, when any revenue officer, or other person accountable for public money, shall neglect or refuse to pay into the Treasury the sum or balance reported to be due to the United States upon the adjustment of his account, it shall be the duty of the Comptroller, and he is, hereby, required to institute suit for the recovery of the same, adding to the sum stated to be due on such account the commissions of the delinquent, which shall be forfeited in every instance where suit is commenced and judgment obtained thereon, and an interest of six per cent. per annum, from the time of receiving the money until it shall be repaid into the Treasury.

SEC. 2. *And be it further enacted*, That in every case of delinquency where suit has been or shall be instituted, a transcript from the books and proceedings of the Treasury, certified by the Register, and authenticated under the seal of the Department, shall be admitted as evidence, and the court trying the cause shall be thereupon authorized to grant judgment, and award execution accordingly. And all copies of bonds, contracts, or other papers relating to or connected with the settlement of any account between the United States and an individual, when certified by the Register to be true copies of the original on file, and authenticated under the seal of the Department, as aforesaid, may be annexed to such transcripts, and shall have equal validity and be entitled to the same degree of credit which would be due to the original papers, if produced and authenticated in court: *Provided*, That where suit is brought upon a bond, or other sealed instrument, and the defendant shall plead "*non est factum*," or upon motion to the court, such plea or motion being verified by the oath or affirmation of the defendant, it shall be lawful for the court to take the same into consideration, and (if it shall appear to be necessary for the attainment of justice) to require the production of the original bond, contract, or other paper specified in such affidavit.

SEC. 3. *And be it further enacted*, That where suit shall be instituted against any person or persons indebted to the United States, as aforesaid, it shall be the duty of the court where the same may be pending to grant judgment at the return term, upon motion, unless the defendant shall, in open court, (the United States attorney being present),

make oath or affirmation that he is equitably entitled to credits which had been, previous to the commencement of the suit, submitted to the consideration of the accounting officers of the Treasury and rejected; specifying each particular claim so rejected, in the affidavit, and that he cannot then come safely to trial. Oath or affirmation to this effect being made, subscribed, and filed, if the court be thereupon satisfied, a continuance until the next succeeding term may be granted, but not otherwise, unless as provided in the preceding section.

SEC. 4. *And be it further enacted*, That in suits between the United States and individuals, no claim for a credit shall be admitted upon trial but such as shall appear to have been presented to the accounting officers of the Treasury for their examination, and by them disallowed, in whole or in part, unless it shall be proved to the satisfaction of the court that the defendant is, at the time of trial, in possession of vouchers not before in his power to procure, and that he was prevented from exhibiting a claim for such credit at the Treasury by absence from the United States or some unavoidable accident.

SEC. 5. *And be it further enacted*, That where any revenue officer, or other person hereafter becoming indebted to the United States, by bond or otherwise, shall become insolvent, or where the estate of any deceased debtor, in the hands of executors or administrators, shall be insufficient to pay all the debts due from the deceased, the debt due to the United States shall be first satisfied; and the priority hereby established shall be deemed to extend as well to cases in which a debtor, not having sufficient property to pay all his debts, shall make a voluntary assignment thereof, or in which the estate and effects of an absconding, concealed, or absent debtor, shall be attached by process of law, as to cases in which an act of legal bankruptcy shall be committed.

SEC. 6. *And be it further enacted*, That all writs of execution upon any judgment obtained for the use of the United States in any of the courts of the United States in one State, may run and be executed in any other State, or in any of the Territories of the United States, but shall be issued from, and made returnable to, the court where the judgment was obtained, any law to the contrary notwithstanding.

SEC. 7. *And be it further enacted*, That nothing in this act shall be construed to repeal, take away, or impair any legal remedy or remedies for the recovery of debts now due or hereafter to be due to the United States, in law or equity, from any person or persons whatsoever, which remedy or remedies might be used if this act was not in force.

Approved, March 3, 1797.

An Act authorizing an expenditure, and making an appropriation for the prosecution of the claims of certain citizens of the United States for property captured by the belligerent Powers.

*Be it enacted, &c.*, That the President of the United States be, and he is hereby, authorized to



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advance, on account of the several prize causes before the Court of Admiralty and Court of Appeals, in England, a sum sufficient to defray the costs thereof, so far as the agents of the United States may have become sureties for the same. And that for defraying, during the year one thousand seven hundred and ninety-seven, that expense, and that which may be incurred in procuring from the Admiralty Courts of any of the belligerent Powers copies of papers relative to the property of American citizens captured by any of the said Powers, a sum not exceeding fifty thousand dollars, shall be, and hereby is, appropriated, in addition to the sums which, from the appropriations for intercourse with foreign nations, have been expended under the direction of the President of the United States in the prosecution of those claims; which sum shall be paid from any moneys which may be in the Treasury, not otherwise appropriated.

SEC. 2. *And be it further enacted*, That, from the money which has been, or which shall be received on any claim, as aforesaid, all costs in the prosecution thereof, which have been, or which shall be incurred by the United States, shall be taken and deducted, or otherwise refunded, and shall be accounted for by the agent or agents employed therein, under the direction of the President; which account, as far as may be then had, shall be submitted to Congress at their next session.

Approved, March 3, 1797.

An Act providing for certain buoys to be placed in and near the harbor of Boston.

*Be it enacted, &c.*, That the Secretary of the Treasury be authorized and directed to cause to be placed in and near the harbor of Boston, in the State of Massachusetts, upon such rocks, ledges, or shoals, as the security of navigation there most requires to be distinguished, not exceeding six larger and ten smaller buoys, whereof the whole expense shall not exceed one thousand six hundred dollars.

SEC. 2. *And be it further enacted*, That a sum not exceeding one thousand six hundred dollars shall be, and hereby is, appropriated to defray the necessary expense of the said buoys, to be paid from the duties on imports and tonnage.

Approved, March 3, 1797.

An Act extending the time for receiving on loan the Domestic Debt of the United States.

*Be it enacted, &c.*, That all the several provisions of the act, entitled "An act further extending the time for receiving on loan the Domestic Debt of the United States," passed the nineteenth day of February, one thousand seven hundred and ninety-six, be, and they are hereby, continued in force until the thirty-first day of December next, and no longer: *Provided*, That nothing herein contained shall be construed to extend to any evidence of Public Debt which may be barred by any act of limitation.

Approved, March 3, 1797.

An Act to revive and continue the act, passed the thirtieth of May, one thousand seven hundred and ninety-six, entitled "An act to regulate the compensation of clerks."

*Be it enacted, &c.*, That the act, entitled "An act to regulate the compensation of clerks," passed the thirtieth of May, one thousand seven hundred and ninety-six, be, and the same is hereby, revived and continued until the first day of January next.

SEC. 2. *And be it further enacted*, That the sum of one hundred dollars be allowed and paid to each of the principal and engrossing clerks in the office of the Secretary of the Senate, in addition to the sums allowed them by law, for the year one thousand seven hundred and ninety-six; and also, that the further sum of one hundred dollars to each of the principal and engrossing clerks employed by the Secretary of the Senate and the Clerk of the House of Representatives, be allowed and paid, for the year one thousand seven hundred and ninety-seven; also, the like sum to the sergeant-at-arms of the House of Representatives, and to each of the door-keepers and assistant door-keepers of the two Houses of Congress, in addition to the sums heretofore allowed by law.

Approved, March 3, 1797.

An Act concerning the Circuit Courts of the United States.

*Be it enacted, &c.*, That, from and after the expiration of the present session of Congress, the times and places of holding the several Circuit Courts of the United States, in the present and each succeeding year, shall be as follows, to wit:

In the State of New York, at the city of New York, on the first days of April and September.

In Connecticut, at New Haven, on the thirteenth day of April, and at Hartford, on the seventeenth day of September.

In Vermont, at Windsor, on the first day of May, and at Rutland, on the third day of October.

In New Hampshire, at Portsmouth, on the nineteenth day of May, and at Exeter, on the second day of November.

In Massachusetts, at Boston, on the first day of June and twentieth day of October.

In Rhode Island, at Newport, on the fifteenth day of June, and at Providence, on the fifteenth day of November.

In New Jersey, at Trenton, on the first days of April and October.

In Pennsylvania, at Philadelphia, on the eleventh days of April and October.

In Delaware, at Newcastle, on the twenty-seventh day of June, and at Dover, on the twenty-seventh day of October.

In Maryland, at Annapolis, on the seventh day of May, and at Baltimore, on the seventh day of November.

In Virginia, at Richmond, on the twenty-second days of May and November.

In Georgia, at Savannah, on the twentieth day of April, and Augusta, on the eighth day of November.

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In South Carolina, at Charleston, on the sixth day of May and the twenty-fifth day of October.

In North Carolina, at Raleigh, on the first day of June and on the thirtieth day of November: *Provided*, That if any of these days shall happen on a Sunday, the court shall be held on the day following:

SEC. 2. *And be it further enacted*, That the fifth section of "An act for altering the times of holding the Circuit Courts in certain districts of the United States, and for other purposes," and the third, fourth, fifth, and sixth sections of "An act making certain alterations in the act for establishing the judicial, and altering the time and place of holding certain courts," be, and the same are hereby, repealed; and that the stated district courts of North Carolina shall, in future, be held at the town of Newbern.

SEC. 3. *And be it further enacted*, That all such process of the several district courts, within the said district, as, before the passing of this act, shall have issued, and all recognizances made, returnable to any of the said several district courts, and all suits and other proceedings that were continued and are depending therein, shall now be returned and held continued to the district court of the said State, to be holden at Newbern, on the first Monday in April next; and shall therein be tried, and otherwise proceeded on, according to law; and the dockets and records of the said several district courts shall be hereafter kept at Newbern, aforesaid. And to the end that suitors, witnesses, and all others concerned, may have notice of the alteration hereby made, the marshal of the said district of North Carolina is hereby required to make the same known, by proclamation, on or before the twenty-third day of the present month.

SEC. 4. *And be it further enacted*, That all proceedings and process depending in, or issuing out of any of the said courts, which are or may be made returnable to any other times and places appointed for holding the same than those above specified, shall be deemed legally returnable on the days and at the places above specified, and not otherwise. And all suits and other proceedings in any of the said courts, which stand continued to any other times and places than those above specified, shall be deemed continued to the times and places prescribed by this act, and no other.

SEC. 5. *Provided, and be it further enacted*, That if, in consequence of any alterations made by this act, it shall appear expedient to the district judge of any of the districts where such alterations are made as aforesaid, that a venire should issue for the summoning of jurors to attend the Circuit Court of such district, which is to be first held after the present session of Congress, it shall be lawful for him to direct the clerk of the said Circuit Court to issue a venire accordingly for the summoning of such number of jurors as the said district judge shall think fit, and from such parts of the district as shall appear to him most suitable to the convenience of the people thereof, giving reasonable notice of the time and place of attendance.

SEC. 6. *And be it further enacted*, That, from

and after the first day of September next, the present terms for holding the District Court in the Kentucky district shall cease, and thereafter the said court shall be holden on the second Monday in March, the third Monday in June and the third Monday in November annually.

Approved, March 3, 1797.

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President be requested to adopt some speedy and effectual means of obtaining information from the States of Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, Kentucky, Tennessee, and South Carolina, whether they have ratified the amendment proposed by Congress to the Constitution, concerning the suabily of States; if they have, to obtain the proper evidence thereof.

Approved, March 2, 1797.

*Resolved, &c.*, That the five hundred copies of the laws of the United States, directed to be printed by the act, entitled "An act for the more general promulgation of the laws of the United States," and which were, by the said act, reserved for the future disposition of Congress, shall be distributed by the Secretary of State in the manner following: One set shall be delivered to George Washington, now President of the United States; to the President of the United States; to the Vice President of the United States, and to each of the members of the Senate and House of Representatives; six sets shall be delivered to the Secretary of the Senate, and twelve sets to the Clerk of the House of Representatives; one set shall be delivered to each of the Judges of the Supreme Court, to each of the Judges of the District Courts, and to each of the Marshals and Attorneys of each district; one set shall be delivered to the Secretary of State, to the Secretary of the Treasury, to the Secretary of War, to the Attorney General, to the Director of the Mint, to the Comptroller of the Treasury, to the Commissioner of the Revenue, to the Register, to the Auditor, to the Accountant of the War Department, and to the Postmaster General, and the Purveyor of Public Supplies; one set shall be delivered to the Governor and to the Secretary of the Territory Northwest of the Ohio, and to each of the Judges thereof; one set shall be delivered to each Collector, Naval Officer, and Surveyor, and to each Supervisor and Inspector of the Revenue in the United States.

SEC. 2. *And be it further enacted*, That in case of the death, resignation, or dismission from office of either of the officers before mentioned, excepting the President and Vice President of the United States, the members of the Senate and House of Representatives, and the Judges of the Supreme and District Courts, the said copies of the Laws of the United States, delivered to them as aforesaid, shall belong to their respective successors in the said offices.

Approved, March 3, 1797.